



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

**Meeting Minutes**

**560 J Street Sacramento, CA 95814**

**May 10, 2011**

**MEMBERS PRESENT**

John Ashby, Chair  
Garff Hathcock, Vice Chair  
Sean Swezey  
Michelle Dennis  
Patrick Kennelly  
Dave Martinelli  
John Foster  
Karen Klonsky  
Melody Meyer  
Steve DeMuri  
Ann King Filmer  
Jenny Lester Moffitt  
Blake Alexandre  
Ione Conlan  
David Will  
Thomas Chapman  
Lauree Bradley

**MEMBERS ABSENT**

Larry Hirahara (excused)  
Janice Woodhouse (excused)  
Michael Sencer (excused)  
Thomas Azwell (excused)  
Martin Guerená (excused)  
Steven Sherman (excused)  
Sandra Schmaier (excused)  
Stacy Carlsen (excused)

**CDFA**

Rick Jensen  
Steve Patton  
David Carlson  
Paul Collins  
Brian Cote  
Scott Renteria  
Sarah Cardoni

**INTERESTED PARTIES**

Claudia Reid, CCOF  
Steve Beckley, OFAC  
Brandy Gamoning, Hidden Villa Ranch  
Ray Green

**ITEM 1: INTRODUCTIONS**

The Committee was called to order at 10:02 a.m. by Mr. John Ashby, Chairperson. Roll was called, a quorum was established, and introductions were made.

**ITEM 2: PUBLIC COMMENTS**

Ms. Claudia Reid, California Certified Organic Farmers Association (CCOF), asked a question on behalf of Mr. Aaron Turner, Oregon Tilth. The inquiry was in regard to the status of a flow chart that was requested at the Accredited Certifying Agent (ACA) Roundtable, a seminar held to discuss which type of operations registered with CDFA and the California Department of Public Health (CDPH). Mr. Patton stated that it would soon be completed and published on the State Organic Program's (SOP) website.

**ITEM 3: REVIEW AND APPROVAL OF JANUARY 27, 2011 MEETING MINUTES**

**MOTION:** Mr. Garff Hathcock moved to approve the January 27, 2011 Meeting Minutes with the correction that Mr. Blake Alexandre was in attendance. Ms. Melody Meyer seconded. The motion passed unanimously.

#### **ITEM 4: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH UPDATE**

Mr. Patrick Kennelly provided the CDPH Report. He stated that there was an increase in complaints received compared to the previous year. Within the last six months, CDPH received a total of ten complaints; three were related to uncertified/unregistered operations; five were related to misbranding; and two dealt with web-related claims rather than product labeling. Of these complaints, four were substantiated and corrective action was taken; two were unsubstantiated; and four are pending resolution.

#### **ITEM 5: STATE ORGANIC PROGRAM UPDATE**

Mr. David Carlson announced the SOP's new revocation process put into action since a directive from the United States Department of Agriculture, National Organic Program (NOP). The NOP tasked SOP personnel with reviewing new proposed actions of revocations to ensure sufficient evidence to justify a willful violation and the revocation of certification issued by an ACA.

Ms. Meyer inquired about the funding for the Federal Organic Certification Cost Share Program. Mr. Carlson stated that \$650,000 in funds remain for the fiscal year (FY) 2010/11 period.

##### **I. Revenue From Registration**

Mr. Carlson provided the Revenue From Registration Report. From July 2010 through March 2011, the SOP received \$834,929 in revenue. In FY 2009/10 for that particular period, the SOP had approximately \$724,000 in revenue. A difference of approximately \$110,000 compared to the previous FY.

##### **II. New Registrations**

Mr. Carlson provided the New Registrations Report. The SOP had received 109 new registrations from January 2011 through March 2011; an increase of 29 more registrations than the same time period last year.

##### **III. Complaint Report**

Mr. Paul Collins provided the Complaint Report. There are 22 active complaints; two of which have been active for more than 120 days. There are three closed investigations that consisted of: a producer advertising and selling as organic at certified farmers' markets (CFMs) who ultimately ceased all organic claims and sales; an operation growing wine grapes who decided to remove all organic claims and labeling from their product and websites rather than register and certify their product as organic; and an operation who after receiving their notice of proposed action, appealed, but failed to follow guidelines for the initiation of an appeal; therefore, losing certification.

Ms. Ann King Filmer questioned why CDFA uses a numbering system to differentiate complaints, which does not disclose the name of the operation, as opposed to CDPH who does divulge company names in their complaint report. Mr. Collins stated that it is CDFA's policy to not disclose that information. CDPH reports completed actions and CDFA reports active complaints; therefore, the name of the operation is not identified because complaints are undergoing investigation.

Mr. Sean Swezey asked if any complaints were related to soil amendments. Mr. Collins stated that there were no soil amendment complaints and that the complaints on the report consisted of advertisement and marketing and substance and pesticide issues. Mr. Swezey stated that the reason for the inquiry was because the industry is seeing operations make organic claims for soil amendments and advertising the soil amendment extensively. Mr. Swezey then questioned what the industry should be watching for in regards to the organic claim under the new rules in the use of the word organic on organic soil amendments. Mr. Carlson stated that as a general rule, there should be a seal which states "registered organic input material." Beginning January 1, 2012, soil amendments advertised as approved for organic production must be registered with CDFA.

#### IV. Appeals Report

Mr. Brian Cote provided the Appeals Report. These records are from 2007 when the appeals regulations were promulgated until present. As of March 31, 2011, the SOP has logged 16 appeals. Of the 16 received, 12 have been resolved. Consequently, the SOP has four active appeals. Two of the four active appeals have been referred to the Department of Justice and two are currently under review by the CDFA hearing officer.

Mr. John Foster inquired about three appeals that are over 120 days. Mr. Cote stated that CDFA refers appeals to the Attorney General's Office and that it takes time for them to build a case and litigate the matter. Ms. Melody Meyer questioned if the operation can continue conducting business during the appeal process. Mr. Cote stated yes, with the caveat that if they are in violation that there could be additional penalties for each additional organic sale during that period.

#### V. Spot Inspection Report

Mr. Cote provided the Organic Spot Inspection Program Report. The Spot Inspection Program was reauthorized in November 2010. During FY 2010/11, enforcement staff focused on newly registered uncertified operations, existing uncertified operations, and organic producers selling at CFMs. As of March 31, 2011, the SOP conducted 34 spot inspections. Four of the 34 spot inspections resulted in the issuance of a notice of noncompliance. The four notices of noncompliance were issued at CFMs and were primarily related to registration. Two of the four notices of noncompliance issued were corrected and the SOP is currently waiting for proof of correction from the remaining two operations.

Ms. Klonsky asked what the time period was for the Spot Inspection Report. Mr. Cote stated that the Spot Inspection Program resumed in November 2010 and that county and state staff did not start inspections until January 2011. The time period was from January 1, 2011, through March 31, 2011.

Mr. Swezey requested that the SOP go back to a previous Spot Inspection Report format that showed the county, what operation received the spot inspection, and the date of the inspection. Mr. Patton cautioned the Committee in requesting another report due to the fact that the Committee already receives several reports. He stated that state staff spend a considerable amount of time producing these reports in the absence of a database; time that should be spent on the enforcement that the SOP is charged with to protect the organic integrity. In addition, the SOP asked that all calendar year reports be changed to a FY basis in order to match up monies spent with the spot inspections conducted. The Committee agreed to change current calendar year reports to FY.

Ms. Meyer asked for an update on the database and suggested that it be discussed. Mr. Jensen stated that a request for information was issued by the Information Technology Division (IT) to the SOP. The SOP is in the process of reviewing the request for information which will be returned to IT for distribution and advertisement. This will start the process of evaluating vendors and the solutions collectively.

Ms. Klonsky inquired if any other spot inspections were being conducted beside the spot inspections conducted at CFMs. Mr. Cote stated that in addition to spot inspections being conducted at CFMs, uncertified operations that are newly registered and existing uncertified operations have been targeted for spot inspections. The SOP contracts with counties to conduct spot inspections. The counties are given a minimum number of inspections to be completed by the end of the FY based on the size and number of its registrants. Mr. Jensen stated that the SOP's commitment is to get to every new registrant that is not certified within the first 12 months, in addition to certified operations.

Mr. Cote brought to the Committee's attention that the SOP is in the process of conducting county audits. The SOP has conducted ten county audits. All of the counties audited had current registration forms, checklists, and auditable records. No noncompliances and/or findings were issued. Furthermore, in addition to the training the SOP provided to all counties in July and August 2010, the SOP provided additional training for nine counties. The curriculum was tailored to the requests of the specific county and included topics such as registration, spot inspections, and enforcement procedures. In addition, SOP personnel have shadowed seven counties since the Spot Inspection Program was reauthorized.

#### **ITEM 6: STATE ORGANIC PROGRAM BUDGET APPROVAL**

Mr. Carlson provided the State Organic Budget Report and asked the Committee for a recommendation for approval of the proposed budget spending authority of \$1,722,128

for FY 2011/12. He stated that there was an increase for the *Travel In-State and Out-of-State*, the *Information Technology*, and the *Payment to Counties* line items. The increase for the *Travel In-State and Out-of-State* line item is due to increased travel for spot inspections, county training and audits, as well as NOP training. The increase for the *Information Technology* line item is for the database. The *Payment to Counties* line item is due to the increase of spot inspections.

Mr. Carlson provided the Organic Program 2010/11 Fund Condition Report. The SOP anticipates that the operating reserve will decrease due to the reimplementation of the Spot Inspection Program.

Mr. Foster asked about the decline of funds in the fund reserve. He specifically inquired if the projected FY 2012/13 of \$1,186,074 was sufficient in the event of the closing of the Program. Mr. Jensen stated that the program is required to maintain 25 percent, but six months of funds are more adequate in the event of a program closure. Mr. Foster stated that a desirable target for the reserve would be one year and the Committee agreed. Mr. Jensen stated that the projection for the end of FY 2012/13 would be approximately 75 percent.

**MOTION:** Mr. Alexandre moved to recommend the Secretary of the California Department of Food and Agriculture (CDFA) approve the FY 2011/12 proposed budget as submitted. Ms. Meyer seconded. The motion passed unanimously.

**ITEM 7: ASSEMBLY BILL 88 (HUFFMAN) FOOD LABELING: GENETICALLY ENGINEERED FOOD**

Ms. Michelle Dennis provided the Committee with an overview of Assembly Bill (AB) 88. She stated that four counties currently have genetically modified organism (GMO) ordinances and that another 16 counties have considered such ordinances. She expressed the concern was not necessarily anti-GMO, but rather the labeling of GMOs for consumer awareness. Ms. Dennis questioned whether the Committee would consider supporting AB 88.

Mr. Ashby asked what the intent of AB 88 was. Mr. Cote stated that AB 88 would establish uncoded legislative findings and declarations in regard to the labeling of all genetically engineered fish entering and sold within the State of California. The bill would define genetically engineered fish as a salmon or other finfish whose genetic structure has been altered at the molecular level by means that are not possible under natural conditions or processes. In addition, the bill would mandate the labeling of any genetically engineered salmon sold in the State of California and provide that any food is misbranded if the food is a genetically engineered fish or fish product and its labeling does not conspicuously identify the fish or fish product as genetically engineered.

Mr. David Will stated that several groups such as the California Farm Bureau Federation, the California League of Food Processors, the Grocery Manufacturers

Association, and several other groups are opposed to AB 88 and have made public comments to express their opposition.

Ms. Ann King Filmer questioned how AB 88 was tied into COPAC. Mr. Foster stated that it is an opportunity to look out for organic products. Public discourse has been that consumers are not aware of GMOs in their conventional products. If consumers knew that their conventional products had GMOs, they may opt to make other choices favoring organic purchases; therefore, giving COPAC an interest.

Mr. Ashby stated that individual support of AB 88 would be sufficient and that a motion to recommend a position to the CDFA Secretary in regard to this legislation is not necessary at this time.

### **ITEM 8: NATIONAL ORGANIC STANDARDS BOARD**

Mr. Foster provided the National Organic Standards Board (NOSB) Report for the Crops and Livestock Committees. The Crop Committee had several recommendations in regard to the National List of Approved and Prohibited Substances. Tetracycline, a substance used by tree fruit growers primarily in the Pacific Northwest for fireblight control, was recommended by the NOSB for a two-year extension. Various copper materials, alcohols, newspapers for mulch, newspapers as compost input, and plastic mulch were all extended as well. Pheromones were added to the list. Clarification of the use of chlorine in a farm or crop context was modified to run parallel to guidance from the NOP. The petition to add nickel to the list of micronutrients was not recommended; therefore, will not be added. Finally, there was no change to corn steep liquor. The Livestock Committee had no votes regarding animal welfare recommendations for stocking rates, handling, animal transit, or slaughter.

Mr. Steve DeMuri provided the NOSB Report for the Handling Committee. There were three petition items that were considered by the Handling Committee. One was for Attapulgit, a filtering aid in vegetable oil production, was approved for listing as prohibited on the National List. Another petition to list Calcium Acid Pyrophosphate as a leavening agent for organic baked goods was voted down by the Board and not listed. Finally, a petition for the expanded use of Sodium Acid Pyrophosphate, which is already on the National List as a leavening agent, was rejected by the Board as well. Sunset items included: Nonsynthetic items Enzymes and Potassium Iodide; Synthetic items Potassium Iodide, Tocopherols, and Nutrient Vitamins and Minerals.

Mr. DeMuri stated that the next NOSB meeting will be held in Savannah, Georgia in late November 2011. An update regarding agenda items will be given at the next COPAC meeting.

Ms. Meyer inquired about vacancies on the NOSB. Mr. DeMuri stated that there were five vacancies on the NOSB which include: an organic producer; an organic handler; a consumer/public interest representative; a scientist; and an environmentalist.

**ITEM 9: NEW ITEMS**

Ms. Conlan asked about an orientation for new members. Mr. Ashby stated that there can only be one committee member contacting another committee member at one time or it would be a violation of the Ralph M. Brown Act. Mr. Patton stated that for new members, a packet will be sent out that will include: three past COPAC meeting minutes; the Committee Roster with committee member contact information; the Bagley-Keene Open Meeting Act 2004; and COPAC policies and procedures.

**ITEM 10: NEXT MEETING/AGENDA ITEMS**

Mr. Patton requested that COPAC hold three meetings per calendar year as opposed to the four meetings that are currently being conducted. Mr. Patton stated that the January meeting is necessary due to public attendance. The meeting in May is essential for the approval of the budget. He then stated that a final meeting for the year should be held in late September or early October. The Committee agreed that the meeting in January was vital. Mr. Ashby stated that the final meeting of the year should be scheduled in accordance to member term expirations so that recommendations for new members can be made. Mr. Swezey asked that meetings be held exclusively on Wednesdays. It was agreed upon by the Committee to hold three meetings per calendar year and to limit the meetings to Wednesdays.

The next meeting will be held in September 2011.

**ITEM 11: ADJOURNMENT**

The meeting was adjourned at 12:55 p.m. by Mr. Ashby, Chairperson.

Respectfully submitted by:



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David Carlson, Special Investigator  
California State Organic Program  
Inspection Services