



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

September 17, 2020

Meeting Minutes

Teleconference

MEMBERS PRESENT

Karen Archipley – Chair
Phillip LaRocca – Vice Chair
Benjamin Diesl
Jeremy Johnson
Jamie Nessel
Michael Menes
Kaley Grimland
John McKeon
Rosalie Burkett
Wendy Reynolds
Sean Feder

MEMBERS ABSENT

Blake Alexandre
Alexis Randolph

INTERESTED PARTIES

Jane Sooby, California Certified
Organic Farmers (CCOF)
Nick Woodrum, California
Department of Public Health
(CDPH)
Daniel Karavan, CDPH
Jane Reick, CDPH

CDFA

Marcee Yount
Scott Renteria
Mayze Fowler-Riggs
Danny Lee
Pam Rodriguez
Andrea Cano
Steve Patton
Mitchell King
Michele Dias
Kara Breevaart
Natalie Krout-Greenberg
Martin Burger
Carla Sanchez

ITEM 1: CALL TO ORDER

The meeting was called to order at 10:05 a.m. by Karen Archipley, Chair.

ITEM 2: INTRODUCTIONS

Introductions were made.

ITEM 3: ROLL CALL

Roll was called by Mitchell King, and a quorum was established. King also indicated that Sean Feder would serve as a voting member in the absence of Alexis Randolph.

ITEM 4: PUBLIC COMMENTS

There were no public comments.

ITEM 5: REVIEW OF MEETING MINUTES

- i. January 23, 2020 Meeting Minutes

MOTION: Phillip LaRocca moved to approve the January 23, 2020 Meeting Minutes as presented. Jaclyn Bowen seconded the motion. A vote by roll call was taken. The motion passed unanimously.

ii. May 7, 2020 Meeting Minutes

MOTION: Phillip LaRocca moved to approve the May 7, 2020 Meeting Minutes as presented. Jaclyn Bowen seconded the motion. A vote by roll call was taken. The motion passed unanimously.

ITEM 6: LEGAL PRESENTATION – CDFA LEGAL OFFICE

i. COPAC Authority

Kara Breevaart of the CDFA Legal Office provided an overview of the authority of COPAC as established under the Food and Agricultural Code section 46003. Breevaart stated that the role of COPAC is advisory only and COPAC does not have authority to take independent action. Chair Archipley asked Breevaart to clarify whether COPAC's role is only to advise the Secretary and not take action such as sending letters to the National Organic Standards Board for example. Michele Dias of the CDFA Legal Office explained that what Chair Archipley described could be considered advocacy, which is beyond the authority of COPAC as defined in statute. Dias explained that if any advocacy letter is going to be sent, it should come from CDFA; either the Secretary or someone delegated to write on the Secretary's behalf.

There was discussion between Jeremy Johnson, Dias, and Breevaart regarding the activities of COPAC and its requests that the Secretary take action on certain items. Dias further clarified and reiterated the role of COPAC and its limitations as defined in statute.

ii. Bagley-Keene

Breevaart gave an overview of the Bagley-Keene Act, its requirements, and its effect on COPAC as an advisory committee. This included defining open meetings versus closed meetings and what qualifies as a committee meeting under the Bagley-Keene Act. Breevaart noted that there are restrictions on what COPAC members can discuss outside of a noticed public meeting and reiterated that while members are allowed to talk with one another outside of meetings, they must bear in mind the requirements of the Bagley-Keene Act and refrain from discussing agenda items. There was also discussion between Dias, Breevaart, and Chair Archipley regarding retention of files and the Public Records Act.

iii. Conflict-of-Interest

Breevaart provided information on conflict-of-interest concerns to COPAC. Breevaart referenced the California Political Reform Act and the Fair Political Practices Act, while reiterating the importance of these sunshine laws to protect the interests of the public. Breevaart also conveyed that members of COPAC are subject to these laws in their

roles on the advisory committee and focused on conflict-of-interest and disqualification standards. Breevaart noted that there does not need to be an actual showing of bias to trigger disqualification. Breevaart referenced California Government Code sections 87100 and 87103 to define the standards of conflict-of-interest for public officials.

ITEM 7: ORGANIC INPUT MATERIALS REGISTRATION PROCESS

Natalie Krout-Greenberg and Dr. Martin Burger provided information to COPAC on the CDFA Organic Input Materials Registration Process. Krout-Greenberg provided background on CDFA's experiences and knowledge reviewing fertilizers containing ammoniacal nitrogen for use in the organic industry.

Dr. Burger discussed the process for reviewing organic input material applications for liquid products with nitrogen concentrations three percent or higher. Dr. Burger noted that the novelty of the products discussed is that the nitrogen is in an ammonia form. Dr. Burger stated that CDFA has registered two novel liquid ammonia products and is reviewing more. According to Dr. Burger, these materials are evaluated for compliance with National Organic Program (NOP) guidelines, including the ingredients and the manufacturing process, with the manufacturing review including an inspection of the manufacturing facility. Dr. Burger also explained that CDFA works with faculty from the University of California to review manufacturing processes.

Dr. Burger went on to explain the various steps in reviewing products, including product contents and manufacturing process. Dr. Burger also stated that CDFA maintains a dialogue with other Material Review Organizations (MROs) regarding liquid ammonia products and that there is currently no conflict among MROs regarding these products.

ITEM 8: CORRESPONDENCE

Breevaart discussed how communications received from the public should be handled by committee members. Two letters from the public on specific organic issues had been sent only to specific members of COPAC. Breevaart stated that any letter that is received by multiple members of COPAC must also be provided to the entire committee in order to satisfy the requirements of the Bagley-Keene Act. Breevaart noted that any member of the public can send letters to committee members, but that members must forward any letters they receive to the Committee Liaison immediately upon receipt. Dias stated that individual committee members should not respond to letters sent to them.

Dias and Breevaart reiterated that responses to letters must come from COPAC as a whole or from the State Organic Program (SOP), and that the responsibility of members who have received letters is to forward them to the Committee Liaison and the SOP.

ITEM 9: ORGANIC SLAUGHTER FACILITIES UPDATE

Thea Rittenhouse provided an update on Organic Slaughter Facilities. Rittenhouse also provided information on the Farmer Equity Report and efforts to include socially disadvantaged farmers and ranchers into CDFA's work.

ITEM 10: CALIFORNIA DEPARTMENT OF PUBLIC HEALTH UPDATES

Wendy Reynolds of the California Department of Public Health (CDPH) provided an update. Reynolds began by answering a question from COPAC regarding testing of processed products. Reynolds stated that it is potentially possible for CDPH to contract with CDFA to perform pesticide residue testing of processed products, but that CDPH would need to know the scope of the desired testing, the financial impact, and whether a contract could be created with CDFA in order to do so. Reynolds also provided updates regarding how complaints are processed by CDPH.

Reynolds provided information on complaints received by CDPH during Fiscal Year (FY) 2019/20. CDPH received 26 complaints during FY 2019/20, 14 of which were from CDFA's SOP, while six were directly to CDPH, with the remaining six from the NOP. Reynolds informed the Committee that four complaints were from regulators, one was from a certifier, nine were from consumers, three came from competitors, and nine were of unknown origin. Of the complaints, 23 were for human food, one was for pet food, and two were for personal care items. Reynolds then described the outcomes of the complaints. Fifteen of the complaints were pending, three were substantiated, six were unsubstantiated, and two were partially substantiated.

Reynolds then described CDPH's active complaints from 2017 to present. There are a total of 48 active complaints with 37 open for over 120 days; one open for more than 90 days but less than 120 days; seven open for more than 60 days but less than 90 days; one open for more than 30 days but less than 60 days; and two open for less than 30 days. Reynolds clarified that these complaints can remain open due to pending investigations; CDPH could be waiting for information, the investigation could be complete with the report pending, or that the review of the report has not been completed. Reynolds noted that the most frequent allegations include being uncertified, unregistered, improper use of the U.S. Department of Food and Agriculture Organic Seal, and misbranding.

Nick Woodrum and Daniel Karavan provided information on the CDPH Food and Drug Branch to the Committee. This included a review of the organization of the Food and Drug Branch, its expenditures, and accounting processes.

i. Food Safety Fund Update

Woodrum provided information on the CDPH Food Safety Fund. Woodrum explained that the Food Safety Fund is used for 13 separate programs within CDPH, including the CDPH Organic Program, and that this constrains what can be done with the monies from the Fund.

There was a period of discussion between Jeremy Johnson and Woodrum regarding whether the Food Safety Fund is strictly allocated from the State Budget or if there were programs within CDPH that contribute fees to the Fund. Woodrum noted that there is no specific budget given to the 13 individual programs under the Food Safety Fund, and that all of the money for these activities stems from the Food Safety Fund. Jane Reick of CDPH, Woodrum, and Johnson then discussed the possibility of fee schedules being adjusted to eliminate the surplus of funds seen from the organic industry. Reick explained that fees are set in statute and CDPH does not have the authority on its own to adjust the fees.

ii. Funds Collected from Organic Registration

Karavan provided an update on Funds Collected from Organic Registration. The information Karavan presented provided a monthly overview of revenue from organic registrations from July of FY 2016/17 through to July of FY 2020/21. According to Karavan, there was a dip in revenue during the initial stages of the COVID-19 pandemic, with revenue dropping 28 percent in April, 10 percent in May, and 24 percent in June of FY 2019/20. Revenue did appear to rebound in July of FY 2020/21 with an increase of 72 percent over the previous month. Karavan stated that it is not currently known what the real impact of COVID-19 is on revenue because there have been both upward and downward trends.

There was discussion between Johnson and Karavan regarding the impact of the staffing changes on revenues. Johnson wanted to know if there had been a delay in processing checks. Johnson asked if CDPH could provide an update at the next COPAC meeting, on the monthly revenue as well as whether there were registrants who delayed their renewal during the beginning of the pandemic. Johnson also asked if it was possible for CDPH to show whether there was an increase in registrants choosing not to renew compared to prior years as a result of the pandemic.

There was further discussion regarding how the funds generated from the organic industry are spent by CDPH to support various programs falling under the Food Safety Fund. There was also discussion of the constraints imposed by the appropriations process.

ITEM 11: STATE ORGANIC PROGRAM UPDATES

i. Vacancies and Terms Report

King provided the Vacancies and Terms Report. King also provided the names of Committee members whose terms were set to expire.

ii. Compliance and Enforcement Summary

Scott Renteria provided the Compliance and Enforcement Summary. Renteria noted that for the 2019/20 FY, CDFA followed up on 131 investigations. Of these, 80 were investigated by CDFA or county staff, 23 were referred to accredited certifying agents; 22 were referred to CDPH; four were referred to the NOP; and two were referred to the Organic Input Materials Program.

Renteria also provided information on inspections conducted during the 2019/20 FY. There were 1,387 inspections conducted in total, 974 were conducted at Certified Farmers' Markets; 233 were conducted at production sites; 84 at handling facilities; seven at processing facilities; 87 at retailers; and two at other locations. Renteria noted that the inspection numbers for the 2019/20 FY were lower than previous years due to the impact of COVID-19 on both state and county operations.

iii. Complaint Activity Report

Renteria provided the Complaint Activity Report for the 2019/20 FY. There were 45 complaints open. Of these, 17 had been open for more than 120 days; 15 were open for over 30 but less than 60 days; seven were open for over 60 but less than 90 days; four were open for over 90 but less than 120 days; and two were open for less than 30 days. CDFA closed 86 complaints during this time period.

iv. Complaint Summary Log

Renteria provided the Complaint Summary Log.

v. Pesticide Sampling Report

Renteria provided the Pesticide Sampling Report. According to Renteria, though the total sampling activity was decreased due to the pandemic, the activity had been on track to exceed prior years before the onset of the pandemic and initial inspection and sampling limitations caused by COVID-19 travel restrictions. The SOP collected 341 samples during the 2019/20 FY. Of these samples, 311 were random surveillance samples; 23 of these detected residues below tolerance levels and 11 detected residues above tolerance levels. SOP also collected 30 investigative samples. Of these, seven detected residues below tolerance levels and two detected residues above tolerance levels. Renteria then provided details on the sampling process itself.

vi. Cost Share Program

Renteria provided information on the Cost Share Program. This led to discussion regarding the changes made to the Cost Share Program by the Farm Services Agency, and reductions in reimbursement amounts.

vii. New Registrations

Mayze Fowler-Riggs provided an update on New Registrations. There was a total of 435 new operations registered with SOP during FY 2019/20. Fowler-Riggs noted that this continues a trend of an increase in registrants.

viii. Impact of COVID-19 on Organic Activities

There was discussion on the impact of COVID-19 on Organic Activities. SOP staff explained that while there was a brief drop in activities such as registrations and inspections during the initial phase of the pandemic, most activities had rebounded as staff learned to navigate the constraints created by the pandemic.

ix. Revenue from Registration

Fowler-Riggs provided an update on Revenue from Registration. During FY 2019/20 there was an increase in registration revenues, with \$1,617,393 collected. Fowler-Riggs did clarify that there was a dip in revenue at the beginning of the COVID-19 pandemic,

but these funds appear to have been recovered between April and June of 2020. Chair Archipley asked Fowler-Riggs if there was any plan to assist those who were affected by wildfires in California. This led to a brief discussion regarding the impacts of both wildfires and COVID-19 on organic operations.

x. Fund Condition Update

Danny Lee provided the Fund Condition Update. Lee stated that as of June 30, 2020, the beginning fund balance for FY 2019/20 was \$3,121,692; the total revenue was \$1,717,851; available cash was \$4,839,543; total expenditures were \$1,411,151; with cash adjustments of \$70,738; for an ending balance of \$3,357,654. Lee explained that expenditures were expected to increase as counties returned to conducting contract work for SOP during the pandemic.

Johnson asked Lee if SOP had any flexibility in spending money. Specifically, Johnson wanted to know if SOP could help to offset changes in Cost Share. Lee noted that SOP could not spend money that was not allotted during the budgeting process and that such efforts would require a legislative change.

Steve Patton suggested that COPAC discuss creative opportunities to spend some of the available funds at a future meeting. Patton would like the Committee to propose ideas so that CDFA can determine which of these are feasible for future activities.

ITEM 12: NEXT MEETING/AGENDA ITEMS

The next meeting will take place via Zoom in January 2021. Chair Archipley asked that King send a Doodle poll to confirm the date for the January 2021 meeting.

Chair Archipley asked that there be an agenda item to discuss the impacts of both COVID-19 and wildfires on organic farmers.

LaRocca suggested an agenda item regarding the availability of United States of Department of Agriculture slaughterhouses.

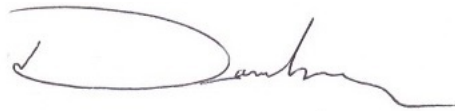
Johnson asked that Woodrum and Reick follow up on the possibility of work to spend some of the revenues or adjust fee schedules as discussed during CDPH's presentation. Johnson also asked if CDPH could show whether there had been an increase in registrants choosing not to renew during the pandemic. Johnson also asked if it was possible to examine waiving fees for a time.

Patton informed the Committee that CDFA will be formally recognizing Stacy Carlsen's service with COPAC at the January meeting.

ITEM 13: ADJOURNMENT

The meeting was adjourned at 1:48 p.m. by Chair Archipley.

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Danny Lee", with a long horizontal flourish extending to the right.

Danny Lee, Supervising Special Investigator
State Organic Program