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Special Report Issue

Notes on the ACA Meeting

ACA members attending the meeting of the National Organic Standards Board met on Monday, May 4 in the evening to discuss current activities, and plan future events. Mark Bradley, Chief of the Accreditation, Auditing, & Training Branch of the National Organic Program, discussed the upcoming NOP meeting in Chicago. Mark indicated information will be presented on many topics, including materials (fertilizer review), preparing information for the NOP database of certified clients, preview of the on-line NOP training modules for Labeling and Certification, and there will be discussion regarding compliance,

investigation and other “hot” topics. Mark noted that there will be resource information handed out at the meeting, covering the presentations during the day.

ACA discussion focused on membership with a summary of our current member numbers, and discussion of how to encourage other certifiers to join.

Discussion also took place regarding our next annual training regarding possible locations, topics and structure. Several members volunteered to assist with the planning.

National Organic Standards Board

The National Organic Standards Board met in Washington, D.C. from May 4 – May 6, 2009. Barbara Robinson, Acting Director of the National Organic Program, provided an update on NOP activities including:

- A budget increase of \$630,000 for Fiscal Year 2009; they are hoping for an increase to \$6 million for FY 2010. This additional funding will allow hiring of additional staff.
- There is a recommendation to move

the NOP out of the Transportation and Marketing division and create its own division. It would remain in the AMS and would report to the director of the AMS, and be on par with Livestock & Seed and Transportation & Marketing.

- The establishment of the People’s Garden. Valerie Frances, NOSB Executive Director, has taken on the responsibility of coordinating efforts for this garden.

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ACA Meets with Kathleen Merrigan

Kathleen Merrigan, Deputy Secretary of Agriculture, addressed the National Organic Standards Board on Tuesday. Kathleen, long time organic supporter and author of the Organic Foods Production Act, was very warmly welcomed by those present. As part of her discussion, she noted that she would be holding “open office” hours, from 4 – 8 pm that evening. She encouraged those interested to sign up for a time slot and come and see her office and meet with her.

Leslie Zuck, Marty Mesh, Jim Pierce, Emily Brown Rosen, and Patricia Kane met with Kathleen at her office. Since ACA was not in existence at the time Kathleen was active with the national standards, we explained the work that ACA and also the National Association of State Departments of Agriculture (NASOP) has been focusing on. We also noted our support for the concept of the NOP as its own department, with a permanent Program Director. Kathleen explained that with the NOP as its own division, a senior executive will be needed to oversee the division. She obtained special permission to

advertise this position, as there is currently a freeze on senior executive pay levels. The job announcement is expected very soon.

We expressed our concern with communication issues between certifiers and the NOP. We also noted our willingness to work with NOP to vet issues prior to publication, explaining that this could provide much needed clarity. We identified the lack of NOP participation in our joint training program as a problematic issue.

We indicated that we supported a much higher level of enforcement of the National Organic Program, indicating that there had not been one enforcement action resulting in fines.

The group discussed the necessity of a Peer Review structure and noted our support of the National Institute of Standards and Technology (NIST) National Voluntary Conformity Assessment System Evaluation (NVCASE) program. This program is compliant with ISO 17011.

Our time went quickly, but we believe this was a productive first session.



Our visit with
Kathleen Merrigan

Left to right:
Jim Pierce, OTCO;
Leslie Zuck, PCO;
Pat Kane, ACA;
Marty Mesh, QCS;
Kathleen Merrigan;
and Emily Brown Rosen,
PCO.

National Organic Standards Board (cont.)

Barbara Robinson's Update (cont.)

- The Office of Inspector General is continuing its review of the NOP; a report is expected by the end of the year.
- 19,000 comments were received on the Pasture Rule. These are currently being reviewed. The goal is to post new proposal later this year.
- Shannon Nally is beginning work on the Origin of Livestock rulemaking.
- Moving forward with creation of the on-line training modules. Will demonstrate work at the All Things Organic meeting in June.
- Planning a retreat for program staff; Audit, Review & Compliance, Office of General Council, and the Appeals branches have also been invited.
- Asked NOSB to consider a working session to include NOP staff in order to prioritize work of the NOSB. This would be similar to the dairy symposium. Public would observe, but not participate. This request was brought about by having 65 NOSB recommendations that the NOP has not acted upon and questioning the need for so many recommendations.
- Seeking nominations for (5) upcoming vacancies on the NOSB. The positions to be filled are: organic producer (2), retailer (1), organic handler (1), and an environmentalist (1).
- Audit, Review & Compliance has received National Institute of Standards and Technology (NIST) accreditation.
- NOP is developing a standardized affidavit for use with flavors. Seeking approval from the Office of General Council.
- Expect to sign Canadian Equivalency agreement at All Things Organic.
- One materials docket has been returned from Office of General Council review.

On Tuesday morning, Kathleen Merrigan, Deputy Secretary of Agriculture, addressed the National Organic Standards Board. Kathleen discussed the relocation of the National Organic Program, and the hiring of a permanent director (*see ACA meets with Kathleen Merrigan article*). The other announcement was for the \$50 million dollars available through the EQUIP program for transition to organic agriculture and for the implementation of additional practices on existing organic farms.

The results of the National Organic Standards Board Votes follow.

Policy Development Committee			
Topic	Comments	Vote	Result
<ul style="list-style-type: none"> • Revision of the New Member Guide to include glossary of Acronyms 	These two documents were voted on in one motion.	Yes: 14	New Member Guide Revised
<ul style="list-style-type: none"> • Revision of E-Bulletin Board Procedures 		No: 0 Absent: 1	
<ul style="list-style-type: none"> • Policy & Procedure Manual revisions to: <ul style="list-style-type: none"> • Clarify the concept of priority for reviewing of petitioned materials • Section 3 review • Section 4 review 	These three documents were voted on in one motion.	Yes: 13 No: 1 Absent: 1	Policy & Procedure Manual Revised

The results of the National Organic Standards Board Votes (cont.)			
Compliance, Accreditation & Certification Committee			
Topic	Comments	Vote	Result
<ul style="list-style-type: none"> Peer Review Guidance 	<p>This document was slightly revised to include a choice of either ANSI Review or review by the National Institute of Standards and Technology (NIST) National Voluntary Conformity Assessment System Evaluation (NVCASE) program.</p>	Yes: 14 No: 0 Absent: 1	Approved revised recommendation.
Joint Crops, & Compliance, Accreditation & Certification Committee			
<ul style="list-style-type: none"> Biodiversity Guidance 	<p>This document was not revised based upon comments.</p>	Yes: 14 No: 0 Absent: 1	Approved; will be referred to NOP.
Crops Committee			
<ul style="list-style-type: none"> Isoparaffinic Hydrocarbon – recommendation on its petitioned use as an extractant and adjuvant 	<p>Petitioner requested withdrawal of the petition, after the review was completed. The Committee indicated that since considerable work and funds had been invested, they will go ahead with vote. Petitioner supplied additional information, but this did not change the committee vote. Petitioner claimed shortage of pyrethrin in the marketplace. The motion is <u>to list</u> the material.</p>	Yes: 0 No: 14 Absent: 1	Motion failed, will not be added to §205.601
<ul style="list-style-type: none"> Sulfurous Acid – recommendation on a petition for its on-farm manufacture for use in pH adjustment of water 	<p>The Board stated that the Technical Review of this material was not sufficient. This material is petitioned to address the issue of too high a pH.</p> <p><i>This will be annotated to read:</i> sulfurous acid – on farm generation of substance, by burning only 99% elemental sulfur.</p> <p>The motion is <u>to list</u> the material.</p>	Yes: 12 No: 2 Absent: 1	Motion passed, will be added to §205.601(j)(2)

The results of the National Organic Standards Board Votes (cont.)

Livestock Committee			
Topic	Comments	Vote	Result
<ul style="list-style-type: none"> Propionic Acid - recommendation on its petitioned use as a mold inhibitor for use in hay & grain 	<p>The Committee recommendation was not to list.</p> <p>The motion is <u>to list</u> the material.</p>	Yes: 0 No: 11 Absent: 2 Recusal: 1 1 Board member was out of the room at the time of the vote, thus 2 absent.	Motion failed, will not be listed to §205.603
<ul style="list-style-type: none"> Vitamins and Minerals injected as supplements 	<p>New section of National List created for this listing: §205.603(g)</p> <p>Addition will read:</p> <p>As nutritive supplements, formulated injectables of trace minerals per §205.603(d)(2), vitamins per §205.603 (d)(3) and electrolytes per §205.603(a)(8), with excipients per §205.603 (f), in accordance with FDA and restricted to use by or on the order of a licensed veterinarian.</p> <p>The motion is <u>to list</u> the material.</p>	Yes: 14 No: 0 Absent: 1	Motion passed; will be listed in §205.603(g)
Handling Committee			
<ul style="list-style-type: none"> Propionic Acid - recommendation on its petitioned use as a mold inhibitor for use in hay & grain 	<p>The motion is <u>to list</u> the material.</p>	Yes: 0 No: 12 Absent: 1 Recusal: 1	Motion failed, will not be listed to §205.605(b)
<ul style="list-style-type: none"> Sodium Chlorite, Acidified – petitioned for use as a sanitizer – secondary direct antimicrobial food treatment and indirect food contact surface sanitizing; acidified with citric acid. 	<p>The annotation was changed to read:</p> <p>acidified with citric acid only</p> <p>The motion is <u>to list</u> the material.</p>	Yes: 12 No: 2 Absent: 1	Motion passed; will be listed in §205.605(b)

The results of the National Organic Standards Board Votes (cont.)

Handling Committee (cont.)

Topic	Comments	Vote	Result
<ul style="list-style-type: none"> Propane – petitioned for use as a processing aid 	The motion is <u>to list</u> the material.	Yes: 0 No: 14 Absent: 1	Motion failed; will not be listed in §205.605(b)
<ul style="list-style-type: none"> Lecithin, Bleached – petition is for removal from §205.605(b) 	This petition received a great deal of comment. Commenters noted that the removal of all types of lecithin could prove problematic for those with soy allergies, as they depend on canola or sunflower based lecithin. The petitioner noted that soy based lecithin is now commercially available; canola based lecithin is available; sunflower based lecithin is in development. It was noted that there is not a source of organic de-oiled (erroneously named dry), as hexane is used to de-oil. The motion is <u>for removal</u> of lecithin, bleached from §205.605(b).	Yes: 13 No: 1 Absent: 1	Motion passed; lecithin bleached will be removed from §205.605(b)
<ul style="list-style-type: none"> Lecithin, unbleached – (sometimes referred to as fluid) petitioned for removal from §205.606 	The petition was revised to <u>change</u> the listing from <i>lecithin, unbleached</i> to <i>lecithin, de-oiled</i> . The change will allow only de-oiled lecithin on §205.606.	Yes: 13 No: 1 Absent: 1	Motion passed; the listing on §205.606 is <u>changed</u> from lecithin, unbleached to lecithin, de-oiled.
<ul style="list-style-type: none"> Color, Red Corn 	The fragility or unavailability of a commercial supply of red corn as organic was not adequately addressed or explained by the petitioner. The motion is <u>to list</u> the material.	Yes: 0 No: 14 Absent: 1	Motion failed; will not be listed on §205.606

The results of the National Organic Standards Board Votes (cont.)			
Handling Committee (cont.)			
Topic	Comments	Vote	Result
<ul style="list-style-type: none"> Chicory Root <p>The Handling Committee found that the actual materials described in the body of the petition were inulin and oligofructose, both derived from chicory root extract. The Handling committee considers these two materials to be included in the listings “ Inulin, oligofructose-enriched” and “Fructooligosaccharides” which were added to the National List following the recommendation of the NOSB at its March 2007 meeting. The Handling Committee also considered the possibility that the petitioner intended to request the listing of “Chicory Root Extract” as a broad category, because chicory root extract which has not been processed into the above materials is also used in handling, as a flavor ingredient for instance. This form of Chicory Root is known by the Handling Committee to be commercially available in organic form. The petitioner was contacted by the Program at the Committee’s request to verify that the only materials for which the petitioner sought listing were those that already appear on §205.606. The petitioner confirmed this. Therefore, it is the recommendation of the Handling Committee that this petition requires no further action.</p> <p>The motion was to take no action.</p>		Yes: 14 No: 0 Absent: 1	No Action Taken
<ul style="list-style-type: none"> Myrrh Essential Oil – (Commiphora myrrha) recommendation to be added to §205.606 	<p>The petition stated <i>Myrrh Essential Oil, for use in perfume.</i></p> <p>The Committee indicated that this would not be restricted to perfume only, so the annotation was removed.</p>	Yes: 11 No: 2 Absent: 1 Abstain: 1	Motion passed; will be added to §205.606
<ul style="list-style-type: none"> Wheat Germ – recommendation to be added to §205.606 	<p>There was a great amount of discussion on this item. As large amounts of organic flours are milled, it was assumed that the quantity needed by the petitioner would be available. It was learned that most miller’s either return the wheat germ to the flour or discard it. There appeared to be doubt whether a thorough search was conducted regarding the availability of organic wheat germ.</p>	Yes: 6 No: 7 Absent: 1 Recusal: 1	Motion failed; will not be added to §205.606

National Organic Standards Board (cont.)

The Committee Work Plans are:

Compliance, Accreditation & Certification	<ul style="list-style-type: none"> • Would like to have 3 recommendations completed for Fall 2009 meeting: <ul style="list-style-type: none"> • Retail Certification • Personal Care • Use of 100% Label • Discussion Paper on “made with organic label” • Chair encouraged Board to utilize ACA Working Groups in their work
Livestock Committee	<ul style="list-style-type: none"> • Animal Welfare • Bivalves • Vaccine – looking at GMO’s • Excipient section change §205.603(f) from “drug” to “animal health products”; look at APHIS biologics • Materials • Apiculture • Sunset 2012
Handling	<ul style="list-style-type: none"> • Classification of Materials – ag/non ag; syn/nonsynthetic • Petitioned materials – glucosamine and low methyl pectin • Sunset items 2011 and 2012 • Flavor guidance • Food Contact Substances • Nanotechnology • Board protocol for assessing commercial availability in §205.606 items • Refine §205.606 – clarify use of accessory ingredients; synthetic carriers not on National List
Policy Development	<ul style="list-style-type: none"> • Continue review of Policy & Procedure Manual, Sections 5 & 6 • Revise Section 3, Secretary Duties regarding procedure currently used for minutes at Board meetings • Review Policy & Procedure Manual to determine if clarification is needed regarding dealing with legislators and extending invitations • Incorporate Biodiversity decisions from this meeting on the accreditation checklist and materials petition • Examine public comment proxy process • Incorporate the questions from the Biodiversity recommendation
Crops	<ul style="list-style-type: none"> • Materials • Sunset materials for 2011 and 2012 • Soilless systems • List 4 Inerts – hope to have a recommendation for Fall

A note about review of materials – the NOSB is now relying on the USDA Office of Science and Technology for technical review of materials. It was documented in several petitions, and in discussions by the Board, that the information received was not adequate. In order to address this, the Board was meeting with the Science and Technology staff following the NOSB meeting to address these issues. All Board Members also met with Kathleen Merrigan at her office on Tuesday.

ACA Board Call 5.13.2009

Barbara Robinson, Acting Director of NOP, participated in the regular monthly ACA Board conference call to discuss several issues.

1. Barbara addressed the ACA request in our letter of 4.9.09 regarding the *Input Approval under NOP Regulations: Liquid Nitrogen Fertilizers*, to replace the 100 yard separation requirement with the following protocol:
 - a) A plan provided by the manufacturer, similar to an organic system plan of a producer/handler, a portion of which would address organic integrity as described in §205.272 of the NOP;
 - b) Specific requirements to conduct audits at the time of inspection comparing amounts of materials/ingredients – both conventional and organic – received, used, stored and shipped;
 - c) Sampling and testing of the basic ingredients and the finished products to assess nitrogen content of ingredients and formulation percentages;
 - d) Secondary unannounced inspections for parallel production manufacturers.

Barbara indicated that the above process would be acceptable as long as the above requirements were followed rigorously, including the secondary unannounced inspections and the verifiable audit trail. A reviewer must be able to verify that no

contamination is present. If however, verification of a lack of contamination could not be determined, the 100 yard separation would be required for parallel production operations.

2. Barbara clarified that 3rd party materials reviewers will be audited by the NOP; this will not be a separate audit, but review of materials will be addressed along with the normal audit. Barbara noted that if certifiers publish a list of approved materials, they will be considered a 3rd party reviewer and will be subject to additional scrutiny. Accredited certifying agents reviewing materials in the context of a specific Organic System Plan are not considered 3rd party reviewers.
3. Regarding the NRCS funding available, and the fact that many certifiers and inspectors will be asked to provide technical assistance to transitioning producers or existing certified producers, Barbara cautioned that certifiers need to pay extra attention to Conflict of Interest. Inspectors providing technical assistance should not also be inspecting the same producer. Staff involved with technical assistance should not participate in certification decisions.

Marty Mesh,
QCS, at the
People's Garden

Photo courtesy of
Emily Brown
Rosen

