

Official Minutes -- March 2000

National Organic Standards Board Meeting Minutes

March 21 – 22, 2000

Embassy Suites Buena Park
7762 Beach Boulevard
Buena Park, California

Attendance Record:

Members Present: 8

E. Rod Crossley
Stephen Pavich
Steven Harper
Eric Sideman
Marvin Hollen
William Welsh
Fred Kirschenmann
Margaret Wittenberg
Margaret Misner, State Rep
Karen Anderson, Certifier Rep.

Members Absent: 4

Robert Anderson
Carolyn Brickey
Joan Gussow
Betsy Lydon

Other Attendees:

Keith Jones, *Program Manager, National Organic Program (NOP), USDA*;
Kathleen A. Merrigan, *Administrator, Agricultural Marketing Service (AMS), USDA*
Beth Hayden, NOP, USDA;
Mark Keating, NOP, USDA;
Richard Mathews, NOP, USDA;
Arthur Neal, NOP, USDA;
Robert Pooler, NOP, USDA;
Toni Strother, NOP, USDA;
Tom Tischner, AMS, USDA; and
Interested persons from the public (See attachment B).

CALL TO ORDER

Robert (Bob) Anderson, Chairperson of the NOSB, was unable, at the last minute to attend the meeting. Margaret Wittenberg was asked and graciously chaired the meeting. Ms. Wittenberg called the meeting to order at 9:15 a.m., Tuesday, March 21, 2000. Keith Jones, Program Manager, thanked Margaret for filling in at the last minute, and thanked every one for coming.

Margaret Wittenberg introduced the State representative for the meeting, Margaret Misner from Idaho and the Certifier representative, Karen Anderson from NOFA-NJ and thanked them for participating. Keith introduced his staff talked about the fact that they were in an ex parte status because of the proposed rule comment period. Keith asked the audience to write down any questions they had for the Board, and give them to Beth Hayden. Ms. Wittenberg asked that they go around the room to find out who the people in attendance were .

NOSB COMMITTEE UPDATES/PROGRESS REPORTS

Accreditation Committee Report: *Ms. Margaret Wittenberg, Acting Chair*

Ms. Diane Goodman reported on the activity of the Enforcement Task Force. The task force will attempt to meet at the Natural Products Expo in Anaheim later this week. The task force waited for the release of the proposed rule to move ahead.

International Committee Report: *Mr. Steve Harper, Acting Chair*

Steve had nothing to report. The committee had been waiting for the proposed rule to be published.

Processing Committee Report: *Ms. Margaret Wittenberg, Chair*

The Processing Committee also had nothing to report. They had been waiting for the proposed rule to be published.

Livestock Committee Report: *Mr. Fred Kirschenmann, Chair*

The Livestock Committee had an issue with the proposed rule regarding whole herd conversions and the inconsistency with international norm of requiring 100% organic feed. The 12 month 100% feed would be a burden on small farmers unlike large farmer/produces.

Mark Keating, NOP Staff, gave an update regarding the aquaculture meetings scheduled for Anchorage, Mobile, and Providence. Mark reported the he and Beth Hayden have been working on the seafood meetings. A Federal Register notice will be published, any day, to announce when and where the meetings will be held. A series of questions are included in the notice that describes what we are looking for. Public comment will be open until May 17, 2000, regarding the series of questions. The NOP will be participating in aquaculture workshops in Seattle and at the University of Minnesota. Eric Sideman is concerned that the workshops are being held to develop standards before all the hearings are completed. Eric also thinks the workshops seem to be a staked deck for the people who want wild fish certified as organic. Keith Jones explained that is not the intent of the workshops. They are designed to get all the issues on the table and put some context around them, not to direct the public process. The NOSB will be represented at the aquaculture meetings; Steve Harper will be in Anchorage, Margaret Whittenberg in Mobile, and Eric Sideman in Providence. Steve Harper will also represent the NOSB at the Seattle workshop.

MOTION by Fred Kirschenmann: To commend NOP for conducting the 3 Aquaculture meeting; and get as much information concerning the meetings as possible out. Seconded by Marvin Hollen. Motion passed - 7 in favor, 1 abstaining.

Discussion continued regarding the perception of NOP involvement and the role of the Board in the process of developing aquatic standards. The Board questioned who will decide on the creation of these standards. Keith suggests that after the staff presents information back to the

Board about the workshops and AMS public meetings (these are the only ones AMS is sponsoring), the Board form a recommendation to the Secretary.

Fred continued the Livestock Committee report with a reminder that there are two motions that were tabled from the October 1999 meeting regarding feed supplements and biodiversity in ecosystems that need to be revisited at the June 2000 meeting.

Crops Committee Report: *Mr. Eric Sideman, Chair*

In 1998 ethylene was petitioned to be included on the National List for flowering in pineapples. The industry asked OMRI to review ethylene. A NOSB Crop Committee recommendations is on the web (www.ams.usda.gov/nop). One committee member felt that it should be used, the rest of the committee felt that it did not fit in organic production. The committee is willing to table the vote until there is more public comment on the use of ethylene. Some concern has been raised it might open the door for growth regulators. Further discussion about the committee's recommendation for phase out period in which Keith Jones noted the phase out period would not make it into the final rule because it is not going through the public comment process. Materials can always be repeticioned.

Motion by Eric Sideman: Table the Ethylene vote until the June 2000 NOSB meeting, pending further public comment. Seconded by Steve Harper. Motion passed - unanimous.

Materials Committee Report:

Keith Jones passed out a draft of the materials petition Federal Register notice for the Board to review and make suggested changes. The petition process is meant to be an open process, and petitions can be made at any time. Petitioners can bring back to the Board additional information during the process. Questions have come up regarding an appeals process for anyone who feels they have been unfairly treated, AMS is checking on this.

Diane Goodman reported to the Board on the petition's drafting process since the October meeting when the Board received a list of items to be contained in the revised petition and added their comments. She noted point not yet included in the current version. Keith Jones responded to issues as follows:

- Regarding the number of times the Board can be petitioned? The number is open within reason, this is meant to be an open process.
- Regarding information necessary for inclusion with the petition, the word "must" will be reconsidered as it implies "imperative" and the intent is to infer "if available".
- Regarding fees, there will be no fees charged for the petition application at this time.

The NOP staff will rewrite the petition document based on Board comment and submit it to the Board tomorrow for review.

USDA/NATIONAL ORGANIC PROGRAM UPDATE

Keith Jones, Program Manager

Keith gave a brief introduction as to what has been happening with the proposed rule in the past week, with the roll out and several teleconference briefings. Keith Jones discussed the layout of the proposed rule and how the NOP Staff will give a review of each subpart. NOP staff members presented a review of each subpart.

Remarks by Kathleen A. Merrigan, Administrator, Agricultural Marketing Service

For Ms. Merrigan's written statement see attachment 1, for transcript of her verbal presentation

Public Comment Session

The following people presented comment to the NOSB. For the verbal transcript of their presentation see attachment 8.

Mr. Jack Samuels (attachment 2)
Mr. Jim Riddle (attachment 3)
Mr. Marty Mesh (attachment 4)
Mr. Michael Sligh (attachment 6)
Mrs. Adrian Samuels
Mr. Bill Wolf
Ms. Emily Brown-Rosen
Ms. Shirley Harvey (attachment 7)
Cissy Bowman

End of Public Comment

The Board returned to the Proposed Rule Review with questions for Kathleen A. Merrigan, Administrator, AMS:

Michael Sligh – **What is to be expected in the process of making changes after this public comment period?** AMS will be looking to the NOSB for advice on an on going basis for the National List and on the changing nature of the program. Ms. Merrigan notes that the only provision to prevent materials from coming up again and again is a Board Policy.

Marty Mesh – **What about a cost share program with any appropriate government program?** Depends on budget request. Keith adds that we got this rule through OMB on a promise from the NOP that they will get this money.

Emily Brown-Rosen – **Is the comment against GMOs strong enough to hold the prohibition or would it be stronger if it came from OFPA?** The comments carry the weight. This goes back to the argument that this is a marketing standard not a food safety standard. Kathleen imagines that we face some challenges in the 50-95 percent and below category and the category of products other than excluded methods. Ms. Merrigan encouraged everybody to think creatively about areas that can support small farmers.

There were no further comments on the Proposed Rule.

ADMINISTRATION – Margaret Wittenberg, Acting Chairperson

The Petition Process was revisited. There was discussion regarding the fact that there are no fees for petitioning. There was concern expressed that the lack of a petition fee opens the door to endless petitions. The OFPA does not provide for petition fees.

MOTION by Eric Sideman to accept the petition document with an offer to keep the name of the petitioner confidential. Fred Kirschenmann seconded the motion. Motion passed - 7 in favor, 1 opposed.

MOTION by Fred Kirschenmann to approve the October 1999 minutes as written. Rod Crossley seconded the motion. Motion passed - unanimously.

The next NOSB Meeting will be held June 6-7, 2000, in Washington, DC.

The Tentative Agenda June 2000:

New Member Orientation and Board Procedure Review

Board Procedure, On-Going Role of the Board

Petition Selection Priorities

Revisit Policy on Timing for Petition Protocol and Public Comment

Role of the Board in Developing Program Manuals

Livestock

Revisit votes on feed supplements, biodiversity in ecosystems

Aquaculture meetings report

Honey standards

Crops

Ethylene vote

Materials

Amino Acids

Finalize Board Comments to the Proposed Rule

Elections

Committee Assignments

The meeting was adjourned at 4:25 p.m.

ROBERT ANDERSON, Chair
National Organic Standards Board

KEITH JONES, Program Manager
National Organic Program