NATIONAL ORGANIC STANDARDS BOARD

Minutes of Meeting July 8, 1993

Members Present: Michael Sligh, Margaret Clark, Eugene Kahn, William Friedman, Craig Weakley, Merrill Clark, Thomas Stoneback, Nancy Taylor, Richard Theuer, Gary Osweiler, Donald Kinsman, L. Dean Eppley, E. K. Chandler, Robert Quinn.

USDA Members: Harold Ricker, Michael Hankin, Julie Anton, D. Ted Rogers.

Chairman Michael Sligh opened the meeting at 8:05 am by asking for approval of the minutes from the May meeting. Richard Theuer noted that the Processing Committee minutes were in less detail than the others. Dean Eppley moved that the minutes be approved. Rich Theuer seconded. Motion passed unanimously.

Chairman Sligh called for any changes in the agenda for this meeting. Jay Friedman noted that it did not provide for public input to the International Committee meeting. It was noted and suggested that the Committee Chair provide time with the allocation at the Chair's discretion.

September Meeting dates were discussed with agreement on September 26-30 and the note that members should fly into Memphis where the Arkansas Land Development Corporation will have transportation arranged to the meeting site. Dr. Ricker discussed the meeting facilities and preliminary arrangements. The facility has capability for 11 single rooms, and the rest would be put up in a nearby motel.

Budget: Dr. Ricker went over a rough budget estimate to indicate how money would be allocated for this meeting and next based on the $30,000 additional funds made available by the Secretary. The Rodale meeting in May allowed the Board to cover its estimated annual phone and fax expenses for Board members and still have enough left for two additional meetings. The budget figures were estimates because not all of the members expenses had been received from the May meeting.

USDA staffing roles: Hal Ricker briefly discussed some of the staffing changes with the addition of Michael Hankin to serve as operations manager and coordinate the work in support of the Board and as we move toward the development of regulations. Ricker indicated that Hankin would become the key person for the Accreditation Committee with Ted Rogers as backup, and Rogers would be key person for the Processing and Materials Committees and continue to improve the mailing list; Julie Anton will continue to be key person for the Crops, International, and Livestock Committees. Hankin will be working to provide some oversight of all activities. Ricker indicated that he was under continuing

pressure from Mr. Fitzpatrick to take on other assignments, but that he would remain as Staff Director for the near future.

There was discussion of the role of minutes, and whether they should reflect official actions only, or whether they need to be detailed to document the justification for the action. Ricker is going to reexamine the FACA requirement with regard to minutes. His view is that the Board meeting minutes have more critical importance than the Committee meeting minutes, as reflecting the views and positions of the Board. The Committee meetings minutes need not be as detailed, but he will double check.

Julie Anton presented a report on public input and the information and action flow process. Hankin indicated that due to the fact that the meeting was running late, that this issue should be brought up for discussion in more detail, at the closing full Board session.

Dr. Ricker then introduced Michael Hankin to make a few comments to the Board. Hankin indicated he was glad to be here, and wanted to acknowledge the work accomplished by the Board and Staff. He indicated a need for a meeting of the Materials Committee, and recommended that no vote be taken on botanicals until after the Technical Advisory Panel review. He suggested that the Board consider modifying its operating structure at future meetings to facilitate full Board discussions on the issues being considered by committees. He cited specific needs for a definition of organics, an audit trail for processing, and looking forward to helping the Livestock Committee move forward. He discussed the need for handling plans to be fairly general in nature to allow flexibility for certifiers.

Craig Weakley asked for clarification on the general nature of handling plans. Hankin responded that the regulatory language would include what is addressed, how it is used, and when it fits.

Bob Quinn asked about the time line. Hankin responded that we will be better able to move on that after he has been able to review the current status and had discussions with OGC.

Jay Friedman expressed concern that they never see comments from OGC. The answer is that OGC does not want to rule on pieces of the program until they can see how they fit together.

Margaret Clark questioned OGC saying that they should start developing recommendations because they may not recommend what USDA thinks they should be. NOSB position is to recommend what they think is best. Hankin indicated he would work with the committee, and hopefully there would not be major differences.

Chairman Sligh then asked for brief committee reports on their planned activities at this meeting.

Processing Committee - Rich Theuer, Chair - Will be working on a labeling draft recommendation. Will also be working on the Organic Handling Plan including the comments from the May meeting. They will be meeting at 1:00 today and the first order of business will be the resolution of issues under the labeling draft, with the hope to have it ready for Board vote on Sunday. At 4:00 today they will be taking public input. At the Saturday meeting they will be working on a response for the National List - after meeting with the Materials Committee. At 3:00 Saturday they will work on essential substances and criteria for essential synthetics.

Accreditation - Margaret Clark, Chair - There is a revised draft of their accreditation document in a packet that is out for public comment with a deadline for comments of August 15, 1993. Topics to be considered in their meetings include: need for legal definitions, clarification of positions, work on the approval process, peer review panel, logo's, and enforcement and appeals issues. There is also a question of the October 1st deadline and the need for an agenda revision.

Livestock Committee - Merrill Clark, Chair - Likes the Oregon Tilth proposal on animal and plant analogues. Supports Hankin's statements on the need for more full Board discussion of topics. Walter Graves gave a very good presentation on the interaction of animals and legumes. At the Friday meeting they will be addressing May meeting issues including livestock sourcing, and feed standards. Gary Osweiler and Don Kinsman are giving presentations on antibiotics and parasiticides tomorrow. Jay Friedman is working on Codex discussion, and Kinsman is looking at livestock density issues. Will also look at Hankin's paper for livestock process, scheduling livestock hearings, emergency feed situations, and land in pasture.

There was a brief discussion of the issues in livestock sources. Friedman questioned whether the livestock standard should be different for different species. He likes the last third of gestation position. Question of differences between slaughter stock and dairy. If you treat all the same, it is easier to manage the program? Gary indicated that there is 9 1/2 month gestation, if you buy a cow in the 5th month and it starts producing milk could it be organic? Friedman's response, calf yes, mother no. Hankin suggested that the topic needs more discussion before a decision is made. Need to provide an analysis of the topics including producer based organics and the relationship to consumer based consideration of organics.

Question arose among NOSB members on the need to have livestock hearings. Ricker reviewed the history of the hearings, the process, and the need for them.

Gene Kahn indicated strong support for the hearings. K. Chandler indicated the need to have strong viewpoints articulated in

addition to consensus.
Theuer indicated that he thought processing is excluded from the hearings. It was pointed out that the OFPA indicates hearings for livestock products.
Kahn indicated that it would be a fatal flaw to delay action of the hearings, because managers need to know what is planned.
Merrill Clark indicated that much has been distributed already.
Kahn indicated that if you can provide current thinking that is fine.
Hankin indicated the need to have analysis.
Anton expressed concern from the public about not hearing about the thinking of the committee.
Kahn indicated that the preliminary working drafts might solve that.
Friedman indicated he would like the NOSB to co-chair the hearings.
Hankin indicated that the input to be received is not to test the NOSB and Livestock Committee, but wants organic community involvement.
Merrill Clark would like to have positions on various issues for consideration.

Crops Committee - Gene Kahn, Chair - The Crops Committee will meet Saturday from 8:00 to 12:00. They will discuss the draft small farm exemption, time line for materials, mushroom and specialized crop standards, requirements for certifying agents for crops, organic farm plan and integration of it with livestock, wild crafting provisions of farm plan need strengthening, Codex crop standards, and organic definition.

The Crops Committee's draft recommendation on spray drift was presented by Bob Quinn. When it was presented in May there were 5 members in support, 7 opposed and one abstention. Indications were that there was too much emphasis on residue testing.
Revisions suggested: Remove from I A. "droplets or granules."
Friedman questioned Section II calling for compensation for loss of organic crop. Kahn indicated they were not sure if it is legal, but wanted to be on record in favor of compensation, and thus make a strong statement.
Michael Sligh indicated his desire to include organic training in certified pesticide applicator training. Committee agreed to consider including in number II.
Nancy Taylor suggested a notification requirement by sprayers to organic farmers.
Margaret Clark indicated there is no direct force in the recommendations unless the Secretary chooses to implement policy recommendations.
Hankin said that this may dilute the language of the document, and besides, it may not all go to the Secretary.
Craig Weakley indicated he would have to disagree, language might go, but the Secretary is going to do it or not.
Kahn preferred to adopt the language.
Friedman and Ricker agreed that you could develop separate

recommendations for addressing issues that are not authorized under current statute for consideration by the Department, which they might provide to the Congress.
Continuing with the document, Quinn noted that proposed changes suggested in May had been made in Section IV.
Friedman questioned line 124. Are you talking about sites rather than product? He also wanted to question who would handle decertification - should be at discretion of certifier.
Suggested that the committee pull out the wish list and put in a separate document. Review lines 179-187 to clarify.
Margaret Clark commended the committee for doing an excellent job in incorporating comments from NOSB and the public.
Friedman indicated the need to review pasteurage for the 3 year exemption, and also actions that trigger enforcement actions.
Weakley indicated that the intent of Friedman's concerns are addressed in other documents. Friedman may need a reference citation.
Merrill Clark indicated that the Livestock Committee had not seen this document prior to this meeting and feels uncomfortable with the Livestock Committee name on the document. Kahn agreed to remove the Livestock Committe name from the document.

Materials Committee - Tom Stoneback, Chair - This is a double transition with Hankin on staff, and Tom Stoneback and Gary Osweiler replacing Nancy Taylor as co-Chairs. They will spend some time on identifying issues and reviewing the process with a high priority for substances on the list. The Technical Advisory Panel needs to be formed and organized as soon as possible, as well as an understanding of the types of information they will be expected to provide. Need to work through the materials for crops, and the special review of botanicals. Will meet in caucuses.
Nancy Taylor asked where we were with the full disclosure document.
Stoneback indicated it is necessary to complete some things this week.
Taylor also questioned the petition form priority, indicating Ted Rogers had another proposal.
Hankin indicated he wants to discuss this further, because the petition form may not be needed until a list is established, but wants to discuss this in committee.
Merrill Clark asked if we could get EPA here for discussion of registration of pesticides and botanicals.
Stoneback indicated procedures for involvement will be worked out.

International - Jay Friedman, Chair - Indicated that Michael Sligh and Bob Quinn have a draft on importation to be discussed, and that Accreditation and International Committees need to meet to discuss it.

Michael Sligh noted that it was 12:00 and that the meeting is adjourned for lunch in order to be on time with the public input session at 1:00 pm. Additional discussion can take place separately or at the full Board session Sunday.

NATIONAL ORGANIC STANDARDS BOARD
PROCESSING, HANDLING AND LABELING COMMITTEE
Committee Minutes
Thursday, July 8, 1993

The Committee meeting commenced at 1:00 PM.

Present: Margaret Clark, Merrill Clark, Gene Kahn, Don Kinsman, Rich Theuer and Craig Weakley; USDA representatives Michael Hankin and Ted Rogers.

Draft Recommendation on Labeling

The Committee reviewed its April "Draft Recommendation" in light of the public comment received on or before June 30, 1993, the deadline for receipt of public comments, and the comments received at the May NOSB meeting, when the draft recommendation was reviewed in detail before the full Board. The Committee revised its draft recommendation to prohibit principal display panel presentation of the percentage organic ingredients.

The Committee revised its draft recommendation to reflect a conclusion that the OFPA allowed certified organic handlers to handle only "organic foods."

[Note:" On July 11, the full Board accepted the Committee's proposals for calculating the percentage organic ingredients and the Committee's definitions for "ingredients" and "processing aids" in foods labeled as "organic."]

The Committee debated once again the specific ingredient labeling, voting in favor of full disclosure of individual spices, flavor components and colors and advancing the draft to the full Board for consideration as a Board draft recommendation. [Note: On July 11, the full Board rejected the Committee's recommendation on full disclosure of spices, flavor components and colors.]

Organic Handling Plan

The Committee reviewed the draft circulated to the public and reviewed before the full Board in May. No comments have been received. The Committee made minor typographical corrections and will seek full Board approval at the September meeting.

Public Input Session

The Committee received comments from Steve Harper, Rob Feldman, Eleanor Goodman, Bill Powers, David Haenn, Rod Crossley and Greg Pennyroyal.
The Committee adjourned at 6:00 PM.

GENERAL PUBLIC COMMENT TO THE NATIONAL ORGANIC STANDARDS BOARD INCLUDING PUBLIC INPUT TO THE PROCESSING COMMITTEE AS LAST SEGMENT, JULY 8, 1993, COTTAGE GROVE, OREGON

Norma Grier provided handouts with her comments, Judy Pegg's comments and Barbara Kelly's response to the Ozark survey. She doesn't support having the NOSB linking up with EPA on tolerance levels.

Eric Ardapple Kindberg - Ozark Small Farm Viability Project - Indicated they were receiving responses to a questionnaire sent to producers and had another for retailers and consumers. Doesn't like the split meeting format. NOSB has three things to accomplish: materials list; accreditation program; and get certifying agents accredited. On materials, synthetics are disallowed except under section 2118 of the Act, which is explicit. Concern about the relationships among Federal, state and private organizations about provisions for discrediting.

Dr. Joseph Morgan - provided a handout on the concerns of those with multiple chemical sensitivities. He requests that the NOSB set high standards for a reliably safe food supply. If not for all organics, he would like a special identification for foods with zero levels of residue. He was questioned as to whether a % level of residues would be workable, and indicated there had never been a study to determine actual levels that would be workable, and even those might vary with individuals tolerance levels.

Ken Nolley - a chemically sensitive individual - underscores Dr. Morgan's comments. Needs a steady supply of pure food. One can't imagine the time spent by the chemically sensitive in gathering food, when they have to rely on an anonymous system. Would favor any system that would help make the buying decision easier. Root crops are notorious for uptake of pesticides. A question was raised about balancing the processor/manufacturer needs versus the chemically sensitive. Ken indicated they only want information and consistent ingredients, and that they don't want to put existing and small firms out of business.

Walter Jeffrey - provided a follow-up discussion to an earlier meeting at which he spoke on potassium chloride. A question was raised about whether a summary of the benefits is available, and he indicated he had a few copies and that the study is being published.

Ron Garcasz - OCIA and farmer - Addressed the issues of confinement for livestock; antibiotics; and percentage of feed that must be organic. On confinement you need to allow animals to use their natural behavior patterns. It is a husbandry and stewardship issue, and need to balance free range with environmental concern for pasture degradation. On antibiotics, the Committee should stay with the legislation and referenced sections 2105, 2118 (b), (c1

and c2).

Robert Beauchemin - OCIA President - Expressed concern about the October first deadline, relationship of private certifiers with states, lack of certifying agent on the NOSB, requirements placed on certifiers by the EEC.
Recognizes the right of states to register certifiers, but when it adds undue burden on certifiers, it may be against the intent of the law. Suggests adding a certifying agent in an advisory capacity to the Accreditation Committee if they can't serve on the NOSB.

Brian Baker - CCOF - Expressed concern about the meaning of the term "synthetic" and indicated it was being used differently by the Crops, Processing, and Livestock Committees. When asked what he would do differently in the standards, he would add a liability standard, but nationally, that would have to be passed by Congress.

Zea Sonnabend -California Action Network, and CCOF - Supports having a certifier on the Board. Suggests that accrediation is not an in or out action, but certifiers should be given a chance to correct deficiencies. Also expressed concern about financial support for the Technical Advisory Panel. The questions will be requiring more than yes or no responses, and members should be compensated. The organic community is waiting to hear about inerts and brand names and how they will be treated.

Dick Hartman - Recounted the problem of trying to get EPA approval for garlic and water. Took 4 years and should go to the organic community, but needs committee approval. How does the NOSB decide on important issues? If items have both environmental impact statement plus an economic impact statement, they ought to be considered for approval.

Pat Leonard - Oregon consultant - Make the law as tough as possible. Wants a good definition of organically grown food that is comparable to the Good Housekeeping Seal of approval. Farmers want to see the law and the list so they can start farming. NOSB should take the time to develop a good law.

Robbie Lee Evans - Farmer member of Organically Grown Cooperative in Eugene, OR - Concerned that there are no vegetable members on the Board. Wanted mandatory residue testing, but thinks there is no rational basis for the 5% of EPA tolerance (thinks it was pulled out of the air). Thinks there is too much emphasis on what is not on produce, rather than on what is in produce nutritionally.

Katherine DiMatteo - Recently submitted Susanne Vaupel's materials list documentation. Hope it moves quickly. The law has to be implemented as quickly as possible. Support for the organic label and the question of organic as a guarantee could be detrimental. Fill in the gaps in the regulation and move it.

Steve Harper - Concern that a total prohibition on synthetic components will put a damper on processed foods. Should pay particular attention to boiler water additives. Consider processing aids as ingredients. Concern that different certifying agents will have different standards for synthetics.

Rob Feldman of the Organic Produce Handlers Association - Expressed general concern that the produce handlers had not been included in the process, felt that he/they should have been more involved in the drafting of positions. Particularly concerned that produce handling was taking a back seat to processing and labeling standards in the Processing committees work. He was critical of the representation on the Board of retailers and processors with an absence of handler representation.

He also expressed his constituencies questions about the need to regulate the Organic Sustainable Community. While acknowledging some need for certification, a common definition, and protection against fraud in the market place the recurrent question was what would this add in costs.

Rob read a laundry list of issues that he felt had not been adequately covered in the handling plan and other committee papers. This list included: Water and air quality in cooling; mixed storage; commingling on the same pallet; pallet break down; Trucks boats and airplanes; reconciliation of differences in audit trails; coding to track product. This brought him back to the question of the cost of the whole system.

The Board, and the processing Committee responded by urging him to write down specific recommendations as per his concerns and send them to the committee. Margaret Clark and Craig Weakley pointed out that he (Rob) had been repeatedly asked for his advice and input on the handling plan and a whole array of other issues. Clark and Rich Theuer also noted that the issues that he had greatest concern for simply had not been consulted yet, but were clearly on the work plan, were considered priority issues, and were to be worked on in the near future.

Elinor Goodman - Amy's Kitchen - Has a small business concern that they would be visited by the government and nailed on small details. Concern whether someone who hauls organic produce from the market needs to be certified. Against percent organic labeling - wants to see justification for putting on the ingredient panel to determine if it is worth it. Cost/benefit of protection against fraud.

Bill Powers, of Badger Mountain Vineyards, served as a spokesperson for the Organic Wine Grape Growers Alliance. They again stressed the need for Sulfur Dioxide from a natural source as a sulfiteing agent. For quality wines to be bottled, kept and marketed up to

100ppm sulfur compounds are needed. Wines both domestic and imported are currently labeled as made from organic grapes.

David Haenn - Ozark Small Farm Viability Project - addressed the need to move on the National list. Indicated there are provisions for non-synthetic ingredients organically produced; ingredients not technically organically produced (2118(a)2) such as yeasts, gums; Senate report was for items difficult to obtain organically; and that there are no exemptions for processing in the Act.

Randy Buresh of the Eclectic Institute - The institute manufactures botanical extracts using certified organic alcohol made from grapes. Questioned whether non organic Grain alcohol would be accepted as an extracting agent. Urged a definitive standard to support the industry and because organic agriculture was good for the earth.

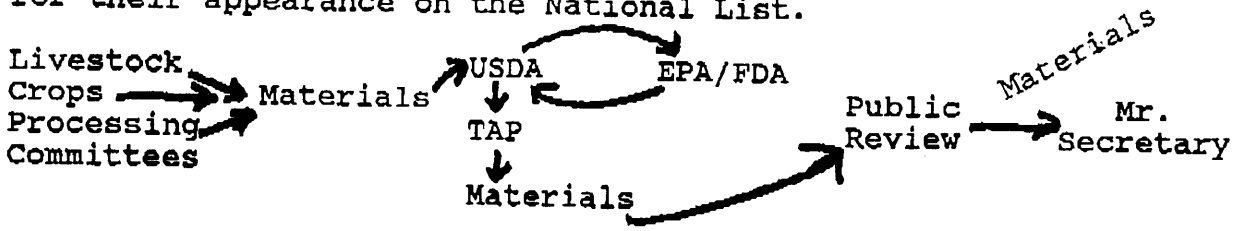
Rod Crosley - Health Valley Foods - Dislikes the split forum for public input, because has to repeat comments for the Processing Committee. Basically critical of the Processing Committee for not addressing comments provided by organic processors, and making decisions without their input.

Greg Pennyroyal delivered a comment for Lon Johnson of Trout Lake Farms - Responding to the Processing Committee's Draft Recommendation on Labeling and general comment. Suggested that principle of reconstitution should be fresh cut weight. feels that use of organic on the information panel should require certification of handler any use of the O word should require certification. Full agreement that organic should be a production claim. Wants to stress the need to prohibit the equating of wild with organic, this diminishes the value of organic. The use of the phrase organic or wild must be prohibited. Felt that full disclosure of spices colors and flavors was the best approach. Noted his experience in the flavor and perfume trade as he commented that so called natural flavors were in fact of synthetic origin.

NATIONAL ORGANICS STANDARDS BOARD
JULY 9, 1993 (Lunch Meeting) MATERIALS COMMITTEE
MINUTES

Dean Eppley, K. Chandler, Rich Theuer, Merrill Clark, Michael Sligh, Gary Osweiler, Nancy Taylor, Hal Ricker, Michael Hanken, Ted Rogers and Tom Stoneback were in attendance.

I. It was agreed that the Materials Committee should organize itself to receive recommendations from the Crops, Livestock, and Processing Committees as to those substances which should go through the Technical Advisory Panel procedures and preparation for their appearance on the National List.



II. The second priority was that the Technical Advisory Panel(s) needs to be formed and organized as soon as possible. And, third...

III. The process for review of substances to appear on the proposed National List needs to receive a high priority and be organized.

Mr. Theuer pointed out that "essentially, this is common sense," with Mr. Sligh adding that "a uniform format is needed." Mr. Chandler suggested "by category."

Mr. Theuer later pointed out that we need a "delisting procedure to take materials off the list as the Secretary is only limited by his inability to add allowed synthetics."

It was agreed that the Materials List construction would be performed by the USDA. Ted Rogers volunteered.

Ms. Taylor raised the question of confidentiality of active and inert ingredients. Discussion centered on full disclosure. Other discussion questioned the role of the certifier and whether proprietary information could be held by the USDA.

The flow of materials review requests to the Technical Advisory Panel from the Materials Committee, through the Technical Advisory Panel and appropriate EPA and FDA approvals, recognized the role of USDA. Subsequent to receiving information from the Technical Advisory Panel the NOSB would offer its work for public review and following comments make its recommendations to the Secretary.

Dr. Ricker stated that he would look into the possibility of available funds to reimburse Technical Advisory Panels for work done. We discussed the important facilitation role filled by the USDA in obtaining FDA and EPA approval. And, the importance of the Extension Service and industry leaders' contacts in developing technical panels.

Mr. Rogers accepted responsibility to structure the format and procedure of Technical Advisory Panels and their relationship to the USDA and National Organics Standards Board. It was noted that the Act empowering the NOSB has seven points which are the criteria for TAP.

Mr. Osweiler stated that we need to start dealing with the known world of synthetics that might be used, and for now deal only with the most controversial natural materials that might be prohibited. Based on this approach the most essential function to complete is preparation of criteria and procedures for evaluating materials for inclusion on the list. These are the benchmarks by which we decide whether a material enters the National List.

Because the Materials Committee receives input from Livestock, Crops, and Processing Committees, and the unique importance that materials play in the organic system, it was suggested that future meetings be held with the full board.

TS/mat

NATIONAL ORGANIC STANDARDS BOARD
LIVESTOCK COMMITTEE
July 9, 1993
Cottage Grove, Oregon

Minutes

Taken by: Julie Anton

Transcribed by: Gary Osweiler

Introduction of Livestock Committee members.

Approval of May 1993 Committee minutes.

Public input on livestock sourcing issues:

A producer of organic beef testified that by Washington State standards, animals under organic production methods for 12 months become certified organic. If animals must be from an organic herd, such a standard would put them out of business. They do not have the acreage for a cow/calf operation where they could source calves from last third of gestation, and do not know of anyone in the State with an organic herd to draw from. They get half of their calves now from an Oregon producer; this producer does not use implants and other inputs, and is sustainable, but not certified organic. He is also careful about quality of calves.

The supplier commented that low-grade cattle, not suitable for market might be the only sources of organic stock. He questioned how reasonable the last third of gestation requirement is. Gary Osweiler responded that 12 months is a long enough "drying out" period to account for removal of drug residues. Merrill Clark commented that Harlan Richie (Michigan State University) says the last 80 days (of gestation) account for the major growth period of animals in the womb.

Eugene Kahn requested legislative review, which Jay Friedman conducted.

Ron Garris, an Oregon Tilth certified organic cow-calf producer in Orego commented that the last 2/3 of gestation must be under organic methods for

their certification. He has 32 mother cows, 100 total, including feeders on just over 200 acres sells to Portland restaurants. He maintains strict standards and believes there should be a tough standard.

Ann Schwartz commented that Oregon Tilth standards say organic feed is required from birth of the calf. There is an exception for buying a day-old calf to put into program. The last third of gestation for slaughter stock is the standard generally.

David Haenn, Ozark Small Farm Viability Project and a goat and sheep producer gave his strict interpretation of the OFPA.

Albert Strauss, a dairy farmer in Marshall, California (Blake's Landing Farms) commented that in California replacement sources have been treated with antibiotics.

Eric Ardapple Kindberg, a producer experienced with hogs, sheep, and cattle, gave his interpretation of the dairy standard; explained how producers could use their own non-organic cattle as replacement stock. He noted the inconsistency in the law between dairy and slaughter stock requirements

Brian Baker, Technical Coordinator for CCOF, said the requirement for organic when available will create a burden on certifiers. There is a need now to allow transitional animals.

Eugene Kahn (NOSB) commented that it seems clear that the last third of gestation requirement for slaughter stock is the intent of OFPA.

Brian Baker: There is a frustration of beef growers over the apparent discrimination against beef versus dairy producers.

Committee Discussion:

Don Kinsman suggested possible changes in language to reflect 2 sources, the organic-producing dam and a dam under organic production methods.

There was a review of lines 34-40 of the May 20, 1993 draft.

K.Chandler expressed his interest in a more lenient interpretation of the OFPA to allow expansion of production. There are 43 million cattle slaughtered in a year, 172,000 per day. Most organic operations are less than 50 head on average. The brood herd,provides calves raised to 3-7 months (200-500 pounds). Stocker herds are on grass 3-7 months (600-700 pounds). The feedlot period, 120-160 days -- could be shortened to half that number of days. He expressed the need to have sufficient volume to be economically viable and enter the market. This is important especially for cattle, since chicken, hogs, and sheep have a short production cycle.

Eugene Kahn expressed that our concern should be whether or not our approach is reasonable.

Ann Schwartz explained how all programs urge livestock producers to develop an organic breeder stock program.

Julie Anton pointed out that most certifying agencies with livestock standards require from the last third of gestation as a source of slaughter stock which must then be raised organically from birth. She asked Ann Schwartz if certifying agencies are deliberately not making link, as the Livestock Committee has tried to do. Ann said yes, but the issue is still under discussion.

Ron Gargasz, organic beef producer, suggested that slower growth forces producers to be better stewards. OCIA supports organic requirements from the last third of gestation for slaughter stock.

Committee Vote on each Livestock Source Chart:

BEEF: Gary Osweiler, Jay Friedman, Merrill Clark and Don Kinsman voted for the beef sourcing diagram and approach developed by Merrill Clark. Eugene Kahn stated the requirement seemed unreasonable, but do not see alternate interpretations of OFPA. He voted for the proposal, with the reservations stated.

DAIRY: Ann Schwartz commented that the current position might preclude

dairy goats (kid at 5 months, therefore, producing diary product before 12 months). Don Kinsman noted that the usual practice is to raise for goats for 8 months before kidding.
Voting for the dairy proposal: Merrill Clark, Eugene Kahn, Gary Osweiler, Don Kinsman, and K.Chandler. (Chandler thinks regulations should allow qualified dairy stock to be slaughtered as organic). Jay Friedman voted against the proposal, noting his belief that dairy animals should be born from cows that qualify from the last third of gestation - a standard more consistent with the beef regulations.

Break

POULTRY: The Committee voted unanimously to accept the poultry sourcing recommendations.

Don Kinsman commented that the Committee should include goats under sheep.

Merrill Clark reminded the Committee that at some time fish, bees, and rabbits need to be addressed.

ANTIBIOTICS
Gary Osweiler led a discussion of the characteristics of how foreign drugs, including antibiotics are handled in the body. Printed material supporting the discussion is attached.
Generally drugs go to the liver (where they may be metabolized to something else, and which may change the activity of antibiotic). Then drugs can be excreted by the bile or once in blood may be excreted by the urine. Each synthetic antibiotic will have to be approved individually. Lynn Coody suggested that perhaps groups of (similar) antibiotics may be approved.
Different species reactions can occur to antibiotics or other drugs? e.g. Brahman cattle are more susceptible to organophosphate chemicals.

Half-life is the time it takes for the body to get rid of half the substance presently in the body. ~~Osweiler charts on plasma concentration are attached~~. Most antibiotics have relatively short half lives; metabolize so quickly that they have to be taken several times per day. Twenty half-lives will generally eliminate detectable traces of the antibiotic; unless retained by body system

in some way. One issue is whether the residue ever get to absolute zero residue. Example of a persistent residue was tetracycline injected into the hip; it is irritating, produces edema around injection site. Usually an improper injection technique or improper use of the antibiotic on other ways result in residue problems where quality control may be lax. Producers may sell treated animals to other producers who then treat again.
Failure to observe withdrawal periods is the number one reason for violative antibiotic residues.
Sulfonamides are not true antibiotics, but are antibacterial. They recycle easily through feces.

Wm. Hubbert commented that testing occurs at meat packing plants when observation of injection sites indicates that meat may be at increased risk of residue; therefore, meat more often tested than dairy products.

Gary Osweiler raised a question for NOSB to Consider: Is pesticide use on crops analogous to antibiotic use in livestock?

Options for Synthetic Systemic Antibiotics were discussed, and those options offered by Osweiler are attached.

Eugene Kahn requested a legislative overview. Jay Friedman commented that discretion to allow antibiotics is under 2110 (d)(1). Mr. Kahn pointed out sec 2118(c)(1)(B)(i), Synthetic additive ingredients, including livestock parasiticides and medicines. The Senate Report may help to enlighten the intent of the law.

Other Committee Activity:

Review of definition of synthetic.

Review of National List procedure.

Discussion of "Organic Management Practices."

Albert Straus asked when disease becomes life-threatening?
He has not found a non-antibiotic solution for foot rot.

Gary Osweiler noted that withholding treatment is against the OFPA. With dairy, it is difficult to divert, so likely the producer would have to sell a treated dairy cow at auction, or to other conventional channels. Mr Straus culls 30-35% of his herd each year. Culling is commonly for mastitis and infertility. He currently is using probiotics, homeopathy, and aspirin as "organic"treatments for mastitis.

Brian Baker offered that CCOF has considered certain antibiotics to be natural. When to refute the presumption that antibiotics are natural is a difficult issue. All certifying agencies allow some use of antibiotics, all with caveats; none identify specific compounds.

Eugene Kahn sees antibiotics as compatible synthetics, because they are altered in manufacturing process.

Lynn Coody's view is that brand names should not appear and that grouping of antibiotics needs to be determined.
Ms. Coody suggested language such as "Penicillins, except _____." would be regulatory language. She offered to figure out a way to make analogous to crops.

Gary Osweiler suggested that most antibiotic substances will have come into contact with an organic compound (e.g. hexane). This solvent extraction process would qualify the problem as synthetic.

Motion on any use of antibiotics:

"Can any of the products of an animal that has received an antibiotic under any condition ever be sold or labeled as organically produced?" Voting yes were Osweiler, Friedman, Kahn, Chandler, and Kinsman. Voting no was Merrill Clark.—

Jay Friedman sees a need to keep uniformity between breeder and slaughter stock.

Review of current certifying agency standards.

Ann Schwartz testified that the consumer-producer-client relationship is most

established in Europe, due to scale of farms. The British Soil Association has always allowed the restricted use of medicines.
Oregon producer, Ron Garris always diverts beef cattle when they have been treated with drugs. He is a natural meat producer and has developed a market based on a "no antibiotics" claim. This is an issue with his restaurant buyers.

Pat Leonard, organic retailer, spent time in Alfalfa's, which sells Coleman's beef. Sales people are trained to present foods as "antibiotics and hormones not present and not used".
Merrill Clark spoke as a consumer representative.
Their shop's consumers ask a lot of questions about antibiotic use. NOSB will have to justify to USDA which withdrawal periods are more appropriate, preventing entry into food chains.

K. Chandler noted that withdrawal time should be 12 months, before product, milk or meat, can enter the food chain.

Motion reconsidered: Clark and Friedman vote no consideration of antibiotics.

Lunch Break

PARASITICIDES

Presentation was given by Don Kinsman. Attachments include Osweiler's synthetic antibiotic use options.

Flies ar external parasites. Pink eye is an external condition, but may be caused only by dust.

Brian Baker:—Commented on prohibition of use organophosphate for fly control around feed. Pyrethrum can be used on organic rangeland or as dust.

Osweiler described pyrethrin, an extract of pyrethrum, which may have inert ingredients that may be questionable. Brian Baker offered that Pyrethrum is extracted using butanol, commonly, which is then flashed off.

Ann Schwartz: Most programs prohibit nicotine.

Breaking down parasiticide use by species is important. Most all certification programs allow parasiticide use in breeding stock. Organic practices v. time not under organic practice are two different things to define.

Lynn Coody: toxic materials can include naturals products such as wormwoods.

Herbals used as medicines are not registered; how can they be used if not registered?

Julie Anton suggested identifying species and parasite problem and regions and current synthetic parasiticide utilized; then evaluate alternatives, for toxicity and efficacy.

Evaluation whether or not certain substances would be a first line of defense may be difficult. Mr. Kahn related parasiticide/antibiotic restrictions to botanicals. If there is not a farm plan to follow, then producers cannot use the restricted materials.

Ann Schwartz distributed IFOAM standards, referring to pp. 29-30.

Brian Baker described CCOF parasiticide standards, which state that cultural practices must be used by certifying agencies. Mr. Kahn asked about differences among inspectors. Baker replied that with some, there may be need for oversight re: criteria.

Lynn Coody: May be difficult to trace source of problem.

Eric Ardapple Kindberg suggested that loss of organic status from treatment should be a factor in the economic plan of every farm. He proposed that each parasiticide must go through the materials review process.

Jay Friedman: would not want to see every parasiticide go through the review process, as Mr. Kindberg suggests.

Ron Garris: If there is a parasite outbreak in herd, where all animals are infected with worms, losses would be much greater than 10%.

William Hubbert: There may be residues from parasiticide if withdrawal periods are not followed.
Twelve programs allow parasiticide use in breeders; 8-9 allow for emergency use. OSFVP: permit emergency treatment for diagnosed medical treatments. Could be widespread abuse because standards lack specificity.

One current Recommendation is to allow National List parasiticides in breeder stock and for documented emergencies in slaughter stock or dairy stock.

Jay Friedman, regarding the emergency use permit, thinks consumers would see documented emergency use of synthetic medicines as reasonable and acceptable.

Julie Anton noted that the Committee will need to establish criteria that define an emergency.

Mr Kahn suggested that the farm plan provision would have some value for defining an emergency. He asked Ann Schwartz if this provision would have broad acceptance. She replied "Yes, except that acute emergency in parasites would need to be treated prior".

Mr. Kindberg does not worm when there is a medium parasite load; in his opinion, this can be determined by the appearance of the livestock.

Ron Gargasz noted that the most persistent parasite problems will occur in breeder stock, which are kept the longest. Treatment must be prior to the last third of gestation.

Brian Baker noted the great regional differences in agriculture and recommended that not just one farmer can speak to what happens on all organic farms.

Need to have some accurate consumer information.

Motion: Could product from livestock that has received restricted use of any synthetic parasiticide be sold or labeled as organically produced? Committee supported the motion, except for Merrill Clark.

FEED STANDARDS

Emergency non-certified organic feed use provision:
destroyed by frost, flood, or other natural disaster = emergency.

Emergency Procedure contingency plans could include going to small farmer exempted feed source as a first choice, if organic feed is not available.

Some discussion followed on how to verify a feed "disaster". Mr. Chandler noted that this was determined by the Commissioner's court in Texas.

Criteria to be used by certifying agency to define disaster could include the terms "Unforeseen, unavoidable, not caused by producer, and not immediately rectifiable".
A Class 1 emergency is an official government-declared disaster. This might be grounds for seeking a waiver.

Poor management or poor planning are not sufficient cause for an exception.

Producers should be required to have a contingency plan.

Ron Gargasz read the OCIA emergency provision. They must be officially documented and pre-approved. "In certain critical years where OCIA forage crops are unavailable or in short supply due to extreme weather conditions, the certification committee can allow a farmer to purchase (non-OCIA) certified organic feed and forage. These inputs must be sufficiently documented and pre-approved by the certification committee".

Mr. Kindberg commented that producers can plan ahead in cases of drought.

Other issues:

"Withdrawal time" Would depend on type of feed utilized in emergency phase.
Ron Garris suggested zero withdrawal time for non-certified organic feed.
Kindberg and Haenn expressed concerns about integrity of livestock.

Albert Straus suggested disclosure to the consumer.

Two additional issues were discussed:

1. the "certified" aspect of feed
2. the "pesticide-free" aspect of feed.

In emergency situations, the need is to guard against residues.

Mr. Kahn said some certifying agencies will determine that there are almost no emergencies.

Ann Schwartz reported that many States are not requiring 100% organic feed; and that for dairy, there are requirements for just 80% organic feed.

Mr. Friedman gave the opinion that there is no apparent statutory authority for emergency feed provision.

Michael Hankin (USDA) commented that the act could be interpreted as providing an emergency provision.

There was Discussion of a USDA proposal for new procedure on Committee/Board decision-making for livestock issues. The committee voted (4:2) to delay discussion to a later time.

Don Kinsman pointed out that no more than 10% non-organic replacements per year are allowed in some international requirements.

CODEX discussion was deferred to a later time.

MOTION: Gary Osweiler moved to remove amino acids from Committee's list of synthetics to be considered for the National List. Voting Yes were Osweiler, Kinsman, Friedman and Clark. Abstention by Kahn.

Additional Committee Issues:

1. Certain natural feed additives that should possibly be prohibited.
2. Farm Plan.
3. Feedlots/density.
4. Livestock considerations in definition of organic.
5. Labeling & processing
6. Procedure to address antibiotics & parasiticide
7. Untreated pasture.

Mr. Kahn asked the Livestock Committee to review the Crops Committee drift recommendation to the full Board. The recommendation includes provisions on forage which were discussed at the NOSB meeting in May.

Meeting Adjourned Approximately 5:30 PM

ACCREDITATION COMMITTEE MEETING
JULY 9, 1993

Committee Members Present:
RICH THEUER, MICHAEL SLIGH, BOB QUINN, NANCY TAYLOR, MARGARET CLARK, JAY FRIEDMAN (ARRIVED LATE)
ALSO: TED ROGERS, MICHAEL HANKIN, HAL RICKER (USDA STAFF), TIM SULLIVAN

Introduction by Margaret Clark:
Clarity needed on several issues which the committee hopes to address in this meeting:

1. State programs and relationship to federal will be looked at. The committees' assumption is that the states and private certifiers have to go through the same accreditation program.
2. Peer Review Panel
3. Enforcement and Appeals

Tim Sullivan's analysis of Act:
Federal Program standards are guidelines for private & state certifiers.
State Program standards are approved by federal government
Accreditation program approves private & state certifiers
Role of NOSB is to recommend program standards for private certifiers & state organic programs.

Presentations by Miles McEvoy: WA State Dept of Ag.:
Certification may or may not be a role of the states; enforcement and monitoring of organic food trade is the role of the states; and to implement federal labeling laws and FDA regulations. In Washington, state has a certification role and does thorough enforcement and monitoring.

Comment from Nancy Taylor: In Idaho, state has a program and there is a private certifier operating there. State would like all to be under state program.
Question: What about the small growers, how does a state certification program effect them?

Miles McEvoy: States and a lot of non-profit organizations can serve all growers in an area, whether large or small. Washington state subsidizes smaller growers. There may be a differential fee structure for smaller growers under private programs. In a for-profit certification agency there is not the incentive to offer subsidies - goal of these agencies would be to make a profit.
If another certification agency wanted to work in Washington, the state would also inspect the farm to check on the work of the certifier. There would not be additional fees from the state.

When products are sold as organic within the state, the product needs to be certified by a recognized certifier- Washington has three criteria: that they are not traders, that there is no conflict of interest and that the program has equivalent standards. Washington does not evaluate the programs in terms of how well they are doing their job. There is not a registration fee, but there may be fees in the future. The accreditation process of the federal government would do a better job and when implemented would replace what Washington state is doing. Washington has a vendor certification program and a "recognition" process to assist the vendors in complying with state requirement that out-of-state product be certified.

Question: Would states want to actively certify nationally?
McEvoy: We would be willing but would prefer not to. Legally might be outside of jurisdication.
Question: If they acted as agents for the national program?
McEvoy: Then we could certify outside the state but would be able to take any regulatory action (enforcement) unless the product got into Washington state.
Comment from committee member: Certification agent has the authority to decertify (which is a type of enforcement action.)
Question: If a private certifier wanted to set up in the state of Wash[illegible]n,

could they operate?
McEvoy: Yes. We don't see it as threat to the state program, or divisive to the growers. Our office is not concerned about competition from other certifiers because we are doing a good job. The growers in the state wanted the state to set up the program in the first place; and seem satisfied with the program.
Question: Do the larger growers know that fees are different under your program based on size?
McEvoy: The larger growers know they are subsidizing the smaller growers. It generally is not resented. Fees range from $200 to $2500.

Presentation by Robert Beauchemin: President of OCIA - International:
I wish to state some concerns. OFPA mentions that the state has the ability to develop certification programs. But, do they have the ability to develop accreditation programs?

I have been involved with the industry for 15 years. Consistency has been the major point of concern for the industry - standards are about the same, the problems have been with different certifier's procedures. Accreditation is about how do you do business, not what are your standards. The U.S. Accreditation under OFPA should not make judgements on standards which exceed the national standard.

State programs are requiring that private certifiers comply with their certification procedures. What is the difference between registration and accreditation? Long registration forms and extensive informational requirements cross over the line from registration to accreditation (evaluation of the program.) Are they (the states) trying to keep us out?

The legislation in Texas asks for inspection at the time of harvest. If there are 6 harvest times, then that would require 6 inspections which would make the certification expensive. Fees required for registration in Texas are high which are prohibitive to the private certifier operating in the state.

There are 4 points in the purposes of the title: What will be the criteria to apply these four conditions.

Private certifiers need some guidance on what is going to happen on October 1 and what is going to happen in the interim, especially in relation to the reguirements of the states.

Who will approve the state programs? The secretary, but who will recommend the criteria used for approval of state program?

Beauchemin read from Paul Branum's letter (director of California's Health and Safety Division) - major point: "If California does not think that the federal program (of accreditation) is adequate, then they will impose stricter requirements." Will states be able to act in this fashion after the OFPA is implemented?

Comment from Margaret Clark: Section 2108 is key - elaboration of criteria is important. What is a responsible amount of oversight by a state?
Beauchemin: Once the national program is in effect, there is mandatory accreditation of private certifiers. If states also require registration, is this a higher standard - what is the need?
Clark: for the state, the issue may be enforcement.
Beauchemin: private certifiers are willing to register who they have certified, where the acreage is, etc. If the registration goes further, there is a problem.

Presentation by Michael Hankin:
I would like to go back to DC with some decisions and consensus so that the staff can get going on the program.

I have some responses to offer to questions and concerns raised by Robert Beauchemin:

Can states develop their own accreditation: no, accreditation reserved for USDA - certifiers operating on a national level.

How a certifier does business not the certifiers standards (beyond the national) will be the focus of accreditation.

States can do registration of certifiers but for purposes of doing business within the state not evaluating your capability.

If privates are certifying for national program, the states can not throw you out. If privates are working for the states, that is a different relationship.

Concerning Texas requirements: if the state expects private certifers to prove equivalency to their standards, then this would be problematic - needs to be considered carefully and a position developed.

USDA has asked the NOSB to develop the criteria to evaluate the state programs. States additional standards have to be consistent with the title - does it meet the intent that the board has set up for the national program. If state programs did not change organic standards but had perhaps regional requirements which are stricter, this would not be considered restrictive.

Until there is a national program, the states may be free to do what they want with their requirements.

The states can not judge the national program, if they do the USDA may have to challenge them in court.

Comments:
Michael Sligh: one area that needs careful attention: when registration is being used as a barrier to trade by the amount of registration fees and registration forms and documents required.
Michael Hankin: registration by states would not have to be approved by USDA but if they received a complaint, the USDA could step in and look at the registration requirements.

Michael Sligh: Could the NOSB be proactive about this in developing criteria for state programs?

Nancy Taylor: How would you see the higher standards of states in relation to imposing trade barriers?
Michael Hankin: both state or private agents would have to certify to the national standard if product carried the federal seal (or language.) If the producer wanted to carry the State seal, they would have to fulfill higher state requirements.

Miles McEvoy: In my opinion, the commerce clause can not be used in regards to state registration of certifiers.

Presentation by Tim Sullivan of FLAG:
We have to continue to look at the big picture - we are going to get buried as we move into the day with the complexity of the issues. We need to keep referencing back to the whole.
Purpose of the law:

1. establish uniformity in the marketplace - it is a consumer law. The consumer needs to know if that the label organic is meaningful.
2. to provide for interstate commerce: also consumer issue and trade issue - federal going to move in for consistency.

A federal program is where it all starts - it is a whole. It is a pitfall to pull apart state and federal programs. There is delegation by the federal program to a state willing to take on responsibilities. Additional standards will be very problematic. Additional standards have to be consistent with federal program. First step for the state is to apply to the USDA. The additional standards issue has to be worked out in the initial approval process. It will be the Secretary who will decide this issue - will these additional standards be consistent with

federal program or will they impede the federal program.

Heart of organic process is the certification program: accreditation under the act guarantees the integrity of the process. There are only two kinds of entitites that can be certifying agents: states with an approved program and privates. The organic program is built on this idea of a partnership between the federal government, the states, and private industry.

Additional standards should be a State resources issue not definition of organic; and monitoring and enforcing who does business in their state.

If states have additional standards, how does that fit into the accreditation scheme: additional standards have to be approved by the USDA. State programs will have a monitoring part of the program - can suspend certification. Ultimate authority has to be with the USDA because of basic structure and because of the tension of competition between state and private certifiers. If states accredited, they would be accrediting themselves. The states have to be accredited in addition to getting their program approved.

Question from Bob Quinn: what is the difference between a state program and a state certifier?
Tim Sullivan:two categories of certifying agents: governing state official (when they are a state program) and private individuals. OFPA imposes the structure. If a State wants to be a program, they apply and then if they want to certify, they need to get accredited.

Comments:
Michael Hankin: until a national program is in place, there can't be approval of state programs. But, I had assumed that the states could apply to be certifiers under the national program.

Zea Sonnabend: California has a state program, but does not do certification. Certifiers have to apply to state to do certification, therefore the state program would have to be approved first before the certifiers could operate.

Question from Rich Theuer: Elaborate on your statement about states rights on resource issues.
Tim Sullivan: Water, for instance, is a resource which some states might have to protect for the benefit of their state. Requirements for one state may not even be necessary for another state. Additional standards will be most problematic especially in terms of consistency.

Question from Zea Sonnabend: would a state apply for accreditation if they don't have a certification program?
Jay Friedman: no, the federal government standards would preempt the state standards if they don't do certification.

Question from Robert Beauchemin: law mentions in section 2108 - States may submit a plan for a state organic certification program. What does this mean? Is California law a certification program?
Jay Friedman: no. State program and certification programs can be different. State governing official can chose not to have its own program, but to do certification within the state for the federal program. States can have agents who implement their own program but would not have to be accredited. States are treated different under other federal laws than private entities.

Question from Michael Sligh: I am confused about three ways to be agents under the federal program-could someone provide an explanation?
Jay Friedman: Under section 2108 - 2 implementors of federal program. But, state programs also have implementors. State programs have to be approved.
Tim Sullivan: Jay's interpretation rests on the view "if applicable." I think if applicable means that if the state has an approved program. State program is

a delegation of the federal program.
Jay Friedman: rulemaking authority is delegated to the State - they have the same authority as the USDA.

Comments:
Rich Theuer: There are obvious legal issues relating to this - this has to generate into work - critical work: what the committee has to recommend the criteria for state program. We have to have standards to recommend to the Secretary. We have to develop a program for accreditation. What work do we have to do to provide decent imput to the Secretary.

Jay Friedman: there are minimal differences in our recommendations for state and private, but additional rules for inconsistencies resulting from additional state standards will be needed.

Bob Quinn made a motion to develop committee recommendations to Secretary on criteria for approval of state programs compatible with criteria of 2108 and purposes of Act. Nancy Taylor seconded the motion and the Committee unanimously approved the motion.

Presentation by Hal Ricker:
The USDA is not clear about position on use of logo - looking for guidance and recommendations from committee.

Comments:
Rich Theuer: in processing, this issue had come up with suggestions that for exporting a USDA seal would be helpful, while others think that it will be crazy to do this. In labeling recommendation developed by the processing committe, it would be optional to use USDA logo.

Michael Sligh: do certifiers in the room want producers to use their individual logos? Show of hands in favor of question.

Comments:
Diane Bowen (Executive Director, CCOF): Our certification organization depends on the use of the label. What does the label mean: does it mean certified to federal standard, or to the certification organization's standards.
Rich Theuer: use of private seal would be left to the discretion of the certification agency.
Margaret Clark: let's agree to use "shield" for USDA and "seal" for private certifiers.
Hal Ricker: to use USDA shields there is usually continuous monitoring by the government - I am not sure if once a year inspection would be adequate under the current practices at USDA.
Michael Hankin: in development of audit trail - identification through words or shield who did the certifying. In processing, it would be the last certifier of the processor.
Margaret Clark: as a retailer, I would like to see that.
Michael Hankin: USDA will keep a list of certifiers and what the products they certify.
Rich Theuer: a numbering code, like FSIS uses, may be used to identify the certifier. Public comment from Tom Harding in the past has recommended that the USDA shield and private certification seal be combined.
Hal Ricker: we need to know the criteria for allowing the additional seal.
Michael Sligh: our role is to say what are the responsibilities of the certifiers to identify the producers they certify.
Ted Rogers: protecting the integrity of the shield becomes one of the responsibilities of the certifier.
Margaret Clark: let's clarify the questions the committee has to address.
Bob Quinn: Use of a shield or a seal? Identification of who certified the producer? I recommend - Use of shield or seal is optional but identification of the certifier should be mandatory.

Michael Sligh: Might be useful for Hal to finish if he has additional points. Is an organization required to put their name on the label if their grower had not meet higher standards?
Nancy Taylor: if they don't use an identification like a shield or seal, then identification of certifier is critical.
Rich Theuer: in regard to aspect of requiring certifier's name to be on the label - After implementation of the law when there is a national meaning to the law that is protected by USDA - is there the urgency to have an certifier identified on the product. If certifier gives names of those certified to USDA, then why the additional info on the package.
Nancy Taylor: for the consumers, it would provide information which has been requested by some of those in public testimony.
Bob Quinn: if you put your name on something, it puts you more on the ball.
Margaret Clark summarized discussion: identification of certifier should be required. Use of shield or seal optionally allowed. We don't have a definition of what the seal stands for.

Bob Quinn: Once the accreditation and certification is in place, and we get in the realm of enforcement, this would be a federal process.
Hal Ricker: depends on the nature of the problem. Some problems could be handled by the certifying agent.
Michael Hankin: different levels of enforcement - taking the product off the shelf and taking the farm out of certification.

Presentation by Katherine DiMatteo, Executive Director OFPANA:
I have been asked to present a short history of accreditation. Some of my comments may already be familiar to you.

The concept of accreditation and certification exists outside of the organic industry - we are not inventing new processes here. Other industries regulate themselves through quality assurance programs, registrations, and certification programs. The model used in the writing of the Act was based on the accreditation system used by universities and colleges.

The use of a certification program for the organic industry was introduced by farmers who were concerned about fradulant products. Their concerns 10-15 years ago were based on their strong beliefs in the organic system being a superior system and one which would improve the health of the environment, particularly the soil. As competition and price grew in the organic market, then there was also concern about fradulant products which would compete with true organic products for price. The certification organizations, as you know, all developed according to different styles and organizational structures.

In the mid-80's, as the demand for organic products was increasing a number of people in the organic movement (or trade) came together out of a common concern that there needed to be a set of guidelines to keep consistency in the organic production standards and certification decisions. This group of people formed OFPANA. The primary purpose was to create these guidelines (the NOSB received a copy of this document last year.) The guidelines were written in 1986, revised in 1988 and are undergoing further additions/revisions now. The guidelines include a section on certification procedures.

The manufacturers who used multiple ingredients in their products urged OFPANA to develop a system for equivalency among the certifiers because sourcing was becoming a problem. OFPANA developed our logo then (the check in the circle) which was envisioned as a universal seal for organic products. But, getting agreement or buy-in to the program was difficult. At the same time, members of OFPANA, Judy Gillan and Joe Smillie, began to work with IFOAM on their idea for an approval of certifiers. Judy actually was the one to attach the name "Accreditation" to the process.

The rest is current history: the OFPANA Label Mark program never happened, IFOAM

has initiated their Accreditation program this year; and the Organic Foods Production Act of 1990 was passed (with support from the organic community and industry) to provide the enforcement that was not happening within the industry.

With the bumpy road that the Act has had in getting implemented, there have been a number of suggestions for the industry/community to take up regulation ourselves. OFPANA had earlier imagined that this would be a service we could provide as a trade association. Our objectivity would come from having a broad-based membership instead of just one sector of the trade. But as an organization we have put our support behind the implementation of the Act, and will not pursue creating an accreditation service unless the Act is never implemented.

Presentation by Diane Bowen: Here is my image of the relationship between the USDA and the state and private certification programs/standards. I've put it into a diagram to help myself see it more clearly.

OFPA --- USDA shield

accreditation — approval for state standards

state certifiers
private certifiers

private additional standards

Private additional standards would automatically be examined through accreditation process. Could theoritically certify to OFPA, and certify (if engaged) to certify to state standards, and to their own additional standards (if approved)

Question from Michael Sligh: are private certifiers allowed to have additional standards? Can I have some comments.
Rich Theuer: I would not say standards but could have additional requirements. Private certifiers can not withhold certification to OFPA, if the producer complies, but could withhold use of private seal, if producer did not wish to meet additional requirements.
Bob Quinn: accreditation process is not going to approve additional requirements, just verification that it is in line (consistent) with the OFPA. It's not an approval - they will only say if you have done it wrong.
Nancy Taylor: I see different relationships than in Diane's chart. Private certifier if operating for the state, then accepted by the state.
Ted Rogers: In regards to additional standards, it is the perception of department (USDA-AMS) that they will have nothing to do with them until they come into conflict with the OFPA.
Michael Hankin: Please note some instances of standards and requirements.
Zea Sonnabend: OCIA requires full farm conversion - this is a standard. The CA state law requires certifiers to disclose names and addresses of all those certified - this is a requirement.
Maine could have an additional standard like no copper based materials because of regionally high copper in soil but would not keep out products grown in other states with copper materials.
Michael Sligh: states could have additional standards and private certifiers could have additional requirements.
Rich Theuer: if states would do it, it would not be allowed but private certifiers could do it for use of their seal.
Michael Hankin: We need to keep in mind the consumer point of view and intent of legislation. The more seals that we allow to define organic, the more we get away from the intent of the law and confuse the consumer.
Robert Beauchemin: one of the most consistent group coming to the hearings is the chemically sensistive group - if we don't allow for higher standards, then how to reconcile to the requests of this group for instance. Where is the middle ground: this is so pure that you can't afford to buy it or organic to a minimum standard. If we don't permit this niche in the market to evolve, we will have conflict.

Michael Hankin: can't it be done through the label of the producer rather than at the level of the certifiers seal.
Robert Beauchemin: this is only one example, there is also the Biodynamic seal.

Margaret Clark: can someone on committee work on wording for a recommendation about private certifiers and the use of their seal?
Michael Sligh: why would we do this?
Margaret Clark: for purposes of clarity.
Tim Sullivan: do we have to move into this issue of additional requirements and use of the seal or just leave it as a private relationship between certifier and those who use their seal. Stop at: let them use the seal. Don't get into criteria for additional requirements.
Bob Quinn: as long as it is not in conflict with the law.
Michael Hankin: if we allow the private certifier to have additional requirements for use of seal, the private certifier could not refuse someone to the OFPA. we are requiring for audit that the name of certifier appear on the product -- would that be in conflict.
Bob Quinn: very different, not a conflict.
Rich Theuer: labeling issue - does this committee want to review processing committees recommendation and add/edit it to fit needs of this committee?
Nancy Taylor; add to labeling recommendation that indentification of final product certifying agent is required. Motion: Use of private certification seal is optional at the discretion of the certifying agent to identify product that meets the certifiers additional requirements.
Zea Sonnabend: could be misunderstood - may not have additional requirements, but may allow the use of the seal.
Michael Sligh: if it is at the discretion of the certifier - why do we need to go further.
Tim Sullivan: no legal problem with a relationship between a business and its client. This language will bring trouble.
No second on motion.

Presentation by Eric Ardapple-Kindberg:
On behalf of the Ozark Small Farm Viability Project and others, I propose that in the accreditation program there be localized peer review panel in six regions. Our original proposal suggested peer review panels in each state, but we would like to ensure that there is quality and consistency in the peer review process, so we have accepted this compromise.

Peer review would be composed of 6 regions with one representative per state and one from USDA. Nominating process: can nominate organic producers, handlers and certifying organization representatives. Election is by organic producers and handlers. Each state elects its representative. Accreditation application is sent to USDA who then sends it out to the regional peer review panel.

Diane Bowen: Who runs election?
Kindberg: USDA would run the elections.
Bob Quinn: everyone would have one vote?
Margaret Clark: at regional level, each state would have one vote?
Michael Hankin: why an election?
Kindberg: fulfills criteria established by the board for decision making. If the peer review was on a more local level: you have more information on the track record of the certifier but there is strong concern about clanism -the regional peer review adds a balance of opinions. There is a national peer review panel in this proposal = all 50 members.

Presentation by Katherine DiMatteo: Executive Director, OFPANA:
Within the models presented in draft 7.1 and the model presented this morning, there exists the components for a practical and effective peer review process that meets the mandate of the Act and the needs of the organic community.

There are several points that OFPANA feels are essential in creating the

accreditation program, particularly in regards to the peer review process.

1. There must be a national peer review panel to provide consistency, oversight- if there are regional peer review panels, to develop a professional group, and to give the U.S. organic program respectability and credibility in the international arena.

2. Peers are other certifiers and others who have a working knowledge of organic production and certification. The panel does not have to be a multiple constituency review group.

3. On-site evaluations of certifying agents needs to be mandatory. In the Codex guidelines for accreditation of organic certifiers, on-site evaluation is required. The U.S. program will want to be recognized as equivalent worldwide.

4. The application review is a rigorous examination of the applicant. Constant clarification of the application is done by phone and fax, which reduces cost. Through the review of the application, areas for on-site review will be determined. The evaluators will know what they want to examine before arriving at the certifiers office.

5. Evaluators should be trained individuals and should not just be USDA staff. Government takeover of a grassroots process is the concern of those opposed to the OFPA. The peer review and the on-site evaluation are the few areas where qualified private sector participation is possible.

6. The organic program should include training for the evaluators. There are not a lot of trained evaluators, the most experienced and professional are generally Europeans.

7. There is an important step missing from draft 7.1 and in any discussions I have heard so far: the posting of a public notice that X certifier has applied for accreditation. This gives everyone the opportunity to comment on the qualifications of the certifier. Complaints, personal experiences, compliments, etc. can all become part of the file developed on the certifier and used as part of the application review process. This is the best form of democratic public input - don't leave it out of the process.

Robert Beauchemin: can the national peer review panel serve to review the certifiers who operate in more than one region?
Katherine: this seems an appropriate role for the national panel.

Presentation by Ted Rogers:
I would like to present some of the ideas we are working on as a department. We agree with a more regional or state by state approach for peer review. Negatives include the electoral nature, cumbersome nature of process, and cost.

We suggest using the six AMS regions, rather than the 4 in the SARE models. 2 representatives per region that would be 12 members on the panel, by some formula representative of producers, handlers and certifiers.

Function of the panel can be carried forward without face to face meetings. Roles to fulfill: to assist us in the review of the applications, writing of application report, assignment of observor per evaluation schedule. USDA staff would be the evaluators - either a member of the peer review panel or designees of the panel will accompany us on the evaluations. (pool proposed by peer review panel and approved by USDA) How Many? depend on how much the certifier is willing to pay. After the evaluation - evaluation report & application report distributed to peer review panel.

These ideas come out of our observations of the committee's discussions and public comments.

Bob Quinn: how would you train them - the USDA evaluators?
Ted Rogers: being trained now - Julie, Ted and Michael Hankin.
Bob Quinn: how about financial/audit expertise?
Rogers: the role of the evaluators is to see if the certifiers can do what they say they can do.
Michael Sligh: I am concerned because all of our time is real valuable. Is our

advise relevant to the process that USDA will initiate? I get a sense that our work is not weighted equally with the work of the USDA staff.
Hal Ricker: we have a role as staff to propose ideas for you to react to. There is considerable concern about cost of program - the priority is for minimum cost to establish a program with integrity. We have people within USDA who can be drawn into this evaluation.
Robert Beuchemin: the way we design the accreditation process will determine the role of the peer review and the evaluation process. If we are designing it to be a box: here is who fits in and who does not. If we are designing a quality management system: we are deciding on shades of gray and then those involved would be more understanding of the process.
Rogers: evolutionary process - we want it to be an educational process which will be learned with the certification organizations.
Robert Beauchemin: this approach needs to be stated before we can talk about the models. Is the purpose of the accreditation to upgrade the quality of the certification system?
Rich Theuer: in the evaluation process, knowing how FSIS, FDA inspectors come to a plant, there are checklist of minor and major deficiencies but there are improvement factors which are brought out by that checklist and inspection. Do we get into a proposed evaluation form?
Rogers: we would tend more to evaluation criteria - which the committee has already written into their recommendation.
Bob Quinn: add fiscal estimate of cost of USDA working proposal.
Hal Ricker: we could come with an estimated cost.

Presentation by Hal Ricker on October 1 deadline:
Without a program in place or power to enforce, there is little they would/could do.
Question: Would Congress come back wanting to know why nothing in the program was done?
Ricker: nothing to enforce until there is a program.
Question: What happens to product labeled organic in the meantime?
Ricker: There could be a suit filed but otherwise nothing would happen.

Presentation by Tim Sullivan, FLAG:
I have dealt enough with USDA programs that are not implemented in time to know that it is standard procedure. This Act is distinquishable from any that I have seen before because this is a law that effects the citizenry at large. Creates legal liabilities. The law says that organic products sold/labeled after Oct. 1 must be certified by an accredited certification agency. How does the state laws fit into this picture? After Oct 1. - what happens to laws on the books for these states (since the federal law preempts that state law.) Any state law that exceeds the OFPA will be no good after Oct 1, 1993. When OGC gives this interpretation of the implementation date, they are thinking of the other programs which they have dealt with before, not the special characteristics of this Act.

Proposals: interim - no one likes it. We can't have a program on Oct 1, or even April 14, 1994. Options for interim: move something so accreditation can happen. Concern that a paper process only would get started. Danger that a skeletal program will take a life of its own. Suggests a strict short-term paper deadline. OR do all the work to get the program done as much as possible as a skeleton. First priority: allow certification organizations to do business.

Comments:
Nancy Taylor: guidelines in draft to start Phase 1 . A timeline is put to that.
Rogers: what is going to drive the problems?
Tim Sullivan: there are a few states already causing problems.
Certifier X is very upset because State X is requiring all kind of things. Is it worth litigation? Or drop standards if they are higher?
Nancy Taylor: You could go with this phase 1 kick in. Accredit certifiers according to national law. Enhanced standards can not be enforced until later

date.
Tim Sullivan: enhanced standards is clear litigation problem.
Can states do anything in this arena after Oct. 1.
Margaret Clark: was it USDA's assumption that the publication process rather than Phase 1 accreditation would be enacted initially?
Michael Hankin: OGC felt whole accreditationn program needs to be enacted.
Eric Ardapple-Kindberg: split out parts of the Act - get accreditation in the federal register. (many expressed agreement) The mandate from Congress concerning $500,000 appropriation for organic program is that the accreditation program get implemented. NOSB and USDA have to set a deadline to get this done. Another suggestion, Certifier X should be stalling to Oct 1 and then file a suit with a state for registration requirements.
Tim Sullivan: I don't want to see that happen.
Rich Theuer: what about getting date changed. NLEA had several delays. That might be a possibility.
Michael Sligh: drafted a resolution and sent it to the Secretary, stating that we would not meet our deadline - what happened to that? A press release came out saying that we are going to be delayed. Do we as an advisory board need to determine if something more formal can be done?
Michael Hankin: both the house and senate are aware that the deadline is not going to be reached. Extension of the deadline could be supported by Congress if asked.
Michael Sligh: is extending the deadline opening up the Act?
Michael Hankin: yes, could shut down the whole program.
Bob Quinn: important to set some dates. understood that final recommendations to board at meeting in September. Is that still feasible. Don't discuss interim programs - we will be splintering ourselves.
Robert Beauchemin: the certifiers in the private sector are being put in a very difficult situation - some businesses will get put out of business or will get out of organic. We might be seeing resolution just by seeing some momentum.
Nancy Taylor: put out a statement for when we will get done and ask the states to put their requirements on hold.
Rich Theuer: get list of requirements of the states and put them up against the law - find the sticking points and provide some direction to the criteria for section 2108.
Bob Quinn: some states going pell mell into an accreditation program. Can USDA ask the states to cool it - that their actions are counter-productive.
Hal: I don't know. but I can go back to OGC with the question. OGC would ask: how can we tell if the states are exceeding the law since its not fully developed. Until I know that the Senate is going to recommend appropriations, I can't say we will have a program.

Bob Quinn: concerned about how we best approach the states achieving the least amount of damage.
Michael Sligh: getting two opinions about the deadline & state programs - from Hal and Tim.
Ricker: needs time to think about it
Tim Sullivan: OGC does not fully understand what is going on here. When they do, they will help. State programs do not understand. When everyone understands, its best for everyone. Needs time to think about it. Get communication across and get a healthy dialogue.
Nancy Taylor: Would USDA feel it could get a memo out to the states - look at the law and hold off on requirements that will be prempted.
Ricker: it might be out of line for USDA to do it. Most states have looked at the law, have brought programs in line.
I am meeting with State Dept of Ag. delegates (marketing directors) week after next. Opportunity to talk about the program and what the effects will be on the states. 75 or 80 people will be there. I may also be talking to commissioners and secretaries of the State Dept. of Ags. also at their meeting at a later date.

Enforcement and appeals:
Miles McEvoy: the state will have the authority to enforce the federal law within

their jurisdiction. Who will do enforcement in other states where there is no state laws? Washington State has active organic program so they have staff year round to investigate complaints that come in about organic labeling. Other states that don't have adequate funding may not enforce the law for the federal government.
Michael Sligh: Is your $100,000 budget all from producers and handlers?
Miles McEvoy: yes
Michael Hankin: what is enforcement?
Miles McEvoy: label is enforced - products sold as WSDA certified organic is indeed in the program (protection of the seal.) Drift occurance, fradulant use of materials, sale in retail that is not grown under standards, out of state product that claims organic but not under a certification program, also internationally imported products. Doing a good job with produce enforcement, not as thorough with processed product.
Rich Theuer: a certifying agent from a private agency: do they report to the State if they find a producer that does not comply?
Miles McEvoy: It hasn't been done but don't know if any have been found in non-compliance.
Tim Sullivan: do you levy fines for violations, what are your administrative process and how do you see this working with OFPA.
Miles McEvoy: have not levied any fines, try to get volunteer compliance, get notice and can request a hearing, it found in non-compliance certification is revoked. Have not gone to a hearing yet.
Administrative appeals process is set in state law - send notice of intent, 20 days to respond, can have a hearing, administrative appeals judge, final review, could file a court claim and go through civil court with a judicial review.
Federal appeals section is a little overwhelming. A lot of expense to send notice of intent to suspend certification,if it goes to federal court of appeals it could be even more expensive.

Presentation by Rod Crossley: member of CA organic advisory board. California is moving forward with their program because they feel the federal program will not be in place. Moving forward with 3 cases of fradulant claims - up to $15,000 in fines.
Director (Paul Branum) may accept the national Act within the 30 days. If you have a complaint about the Act, the director must hold a hearing prior to the implementation of the law.
They think they will continue their organic program. Fully supported by fees to producers and handlers. Program is needed. No money comes with legislation from Washington, DC.
Clark: Could you talk more about this?
Crossley: Tens of thousands of organic acreage in California - too much at stake not to have a state law. Producers have been doing it for a long time and reluctant to switch over to federal law.
Diane Bowen: 23 complaints active in CA. 7 have been resolved. 3 will be announced publicly soon and have received notice. Can go to standard appeals process for state. Urge the NOSB or USDA to remember that the growers and processors are the backbone of the industry; and these state laws are protecting the growers now.
Rod Crossley: a lot of time has gone into making the California law effective.

Presentation by Tim Sullivan:
Enforcement: unusual aspect in this law - not unusual about state and federal government to be partners in enforcement - what is unusual is the role of private agencies in this partnership. Adverse determinations can be made about the state and private agencies, as well, as they are making decisions about producers and handlers. Process has to be very fast because prolonged appeals kill farmers. OFPA brings federal jurisdiction over the whole process. Has to include some kind of process which allows the decision-makers to review and determine final resolutions in the USDA. Appeals process in OFPA and standard federal appeals process needs to be looked at. There is authorization to take the appeals directly to the courts. That opens a wider door to review administrative

decisions. Lot of implications - a very broad thing.

Some fundamental points for appeal process: return to original decisionmaker - for reconsideration; if not resolved, how many more steps will there be. Will there be a state process or will we go directly to the federal process?

Comments:
Rich Theuer: FDA is waiting to get information from the Secretary about organic to apply to FDA regulations. Processors governed by FDA regulations will fall under organic regulations and appeals process.
Michael Hankin: Section 2120 c, 1 c: only time in the act it is not making a reference to state governing official. If there is an appeal to be held, it would go right to the federal.
Tim Sullivan: issues on independence of administrative review, fairness of the process is critical, fairness can not happen if the person who does the administrative review of the adverse determination is also responsible for making that determination.
Provision leaves procedures completely undefined but also gives parties express cause of action to use federal courts.
Michael Sligh: the more user friendly and independent this is, the fairer it will be. Where does it go in the USDS. (conflict of interest and independence) If AMS is the administrator and you go to the USDA for an appeal?
Ricker: There is an administrative appeals process in USDA - outside of AMS.
Rod Crossley: With a fresh fruit and vegetable violation: At what point are we going to stop him from selling fresh produce? during appeals process? Does the law/can the law put a stop order to sell organic?
Miles McEvoy: different process when taking action against producer or the process. revoking certificate: removing property right, (for example).
Ricker: we could provide you with more information. Perhaps, PACA process should be looked out. Deparment is year away from separate appeals division within USDA. Margaret summarized: important characteristics of an appeals process: expedicious, cost effective, fair.
Sullivan: look internally first at USDA - what is administratively available. then, look at phasing into the independent appeals process being proposed for USDA.
Nancy Taylor made a motion that the USDA come back with more information and then consider our options from that point. Existing internal procedures would be used as a model.
Clark: need an appeals section in our draft before it is released.

Rich Theuer made a motion that by the 15th of September we have the Department's best effort to summarize existing appeals models. Analyze PACA first. Committee will prepare a draft by the time of the next meeting. Michael Sligh will pick a sub-committee. Seconded by Michael Sligh. Agreed by the committee.

Michael Sligh made a motion to adjourn the meeting. 4:45 PM.

NATIONAL ORGANIC STANDARDS BOARD
PROCESSING, HANDLING AND LABELING COMMITTEE
Committee Minutes
Saturday, July 10, 1993

The Committee meeting commenced at 1:20 PM.

Present: The Processing Handling and Labeling Committee met with the Materials Committee for the first hour. NOSB members present were Merrill Clark, Margaret Clark, Gene Kahn, Craig Weakley, Don Kinsman, Rich Theuer, Tom Stoneback, Gary Osweiler, Jay Friedman, Michael Sligh, K. Chandler, Dean Eppley, Nancy Taylor and Bob Quinn. All USDA representatives were present.

Michael Hankin of USDA presented an analysis of the provisions of the OFPA related to the National List of substances allowable in organic food handling. The contradiction between two subparagraphs of Section 2118(c), (A)(ii) and (B)(iii), provides justification to the NOSB to recommend to the Secretary that so-called "essential synthetic" substances required in processing food for human consumption be allowed in organic food. At the conclusion of the discussion of this point, the Materials Committee left to meet with the Livestock Standards and Crops Standards Committees.

General Processing Standard for Organic Foods Handling

The PHL Committee (Margaret Clark, Gene Kahn, Craig Weakley and Rich Theuer) reviewed the efforts of Craig Weakley and Rich Theuer, who identified those aspects of Good Manufacturing Practice (GMP's) used for conventional food processing which must be modified to be appropriate for organic food, as a simple means of communicating with food processors and to the Secretary the PHL Committee's recommendations for Organic Food Handling Standards. The proposals by Weakley and Theuer were slightly modified. Gene Kahn proposed the following definition of "organic integrity," which is critical to this approach:

> For the purposes of this Act, the term "organic integrity" is defined as the unbroken chain of custody that guarantees that the identify of a 100% organic food or an individual organic ingredient remains out of contact with prohibited substances and non-organic foods or other non-organic ingredients of the same identity.

Craig Weakley will summarize the comments made in Committee session in a revised document. The Committee will review this document and discuss it by conference call to ensure that the comments of the Committee members are accurately reflected.

The next steps are to review the fresh food handling regulations (PACA) and the meat processing regulations by a similar process. Gene Kahn will spearheaded the fresh food handling regulation

review, with industry participations; the custody chain analysis has already begun. Don Kinsman and Merrill Clark will spearhead the meat processing regulations review; Kinsman already has prepared a brief summary which he will circulate to the Committee.

National List of Substances Allowable in Foods Purporting to Contain Organic Ingredients

The PHL Committee (all in attendance) discussed the mechanism and criteria for reviewing and evaluating "essential synthetic" substances. For criteria, Sections 2118(c) and 2119(m) of the OFPA apply. For mechanism, the criteria of Section 2118(c) will be applied first, giving effect to all provisions of the Act to the extent possible. This review would be accomplished first by the PHL Committee, for recommendation to the Full Board. The Committee will revert to applicants seeking approval of substances which do not meet these criteria, communicating this fact and indicating that the Committee does not intend to submit these substances for inclusion in the National List.

Merrill Clark expressed her beliefs that allowing synthetic substances in processed food labeled as organic goes beyond the letter of the law, that organic processed food should not be compromised with synthetic substances and that processing of organic foods should be restricted to simple processing procedures which do not require the use of synthetic substances.

The PHL Committee discussed with USDA representatives the information requirements of USDA for the National List of substances allowable in handling. The categories of foods and food uses in 21CFR170.3 meet USDA requirements for specifying which foods and which uses are appropriate for substances to be permitted on the National List. These categories also facilitate meeting the requirements established by the Materials Committee for submission of substances to the Technical Advisory Panel.

The PHL Committee briefly discussed the sulfur dioxide exemption that the Committee considers appropriate for "wine made with organic grapes." Sulfur dioxide is a sulfiting agent. Sulfites are prohibited ingredients in organic foods. Therefore, for this exemption to be possible, sulfur dioxide must pass through the National List review procedure mechanism. The Committee so moved and passed this motion.

The PHL Committee discussed the concept of "availability". "Availability" has many dimensions, including the number of suppliers of the substances, the relation between supply and demand, price and quality or grades. Craig Weakley commented that economics should not be a criteria for determining availability; Gene Kahn expressed the opposing point of view. To help eliminate informational impediments to the awareness of what

substances are available in organic form, UDSA expressed its intent to create an information bank of available organic substances from feedback and surveys of certifying agents.

Other

Merrill Clark raised the issue of pest management in organic handling and processing operations. To supplement what is already in the Organic Handling Plan requirements, she will prepare a draft drawing on the documents circulated within the Committee by Merrill Clark and Rich Theuer earlier this year.

Rod Crossley of Health Valley Foods protested the Committee's labeling draft document due to procedural issues. The Committee noted that this document was presented to the full Board in Pennsylvania in May and that several individuals from industry provided extremely insightful and relevant comments which the Committee, in fact, responded to favorably during its meeting on July 8.

The Committee adjourned at 5:30 PM.

Richard C. Theuer, Chair
Processing, Handling and Labeling Committee
National Organic Standards Board
Minutes approved by Committee, October 26, 1993

NOSB ACCREDITATION COMMITTEE
JULY 10, 1993

Committee Members Present:
RICH THEUER, JAY FRIEDMAN, MARGARET CLARK, BOB QUINN, NANCY TAYLOR, MICHAEL SLIGH.
ALSO PRESENT: TIM SULLIVAN, TED ROGERS, MICHAEL HANKIN

Margaret Clark opened the meeting with a committee discussion concerning state laws in reference to higher standards. Purpose of the discussion - developing criteria for state standards and approval of state programs:
Suggestions:
Rich Theuer: state resource protection/use is one such criteria, are there others? Compare state programs to identify differences between states and feds and states & states.
Bob Quinn: poll the states - ask them what higher standards they might want to include.
Jay Friedman: look at the laws currently in place in the states.

Michael Sligh: would it be appropriate, if there could are potential problems between the states and the federal laws, for us to be very decisive in our recommendations to the Secretary?
Comments:
Tim Sullivan: Act was drafted to allow states to do state programs, but also discretion given to the Secretary, rather than look at it as states rights to have standards, it's delegation by the secretary.
Jay Friedman: Secretary's discretion has to be controlled by states rights.
Rich Theuer: options: we (the NOSB)could do nothing - the Secretary will make his own determination. OR, we could do something but does it have any impact on what the Secretary does?
Comments:
Jay Friedman: if state approval process is different from accreditation, then the Secretary has a lot more discretion - he does not have to take a recommendation.
Tim Sullivan: the NOSB has relatively little influence on the secretary in this particular area.

Michael Sligh: in our priorities, where does this fall? Are we better for having made some criteria, then not at all? Do we send out for comments, do we poll?
Comments:
Jay Friedman: Write to NASDA, express concern about relationship, seek their advice about relationship of the state programs to the federal law.
Bob Quinn: I agree, ask for suggestions about how state approval program would look. how many are going to participate in a program that is different from federal.

Michael Sligh: can we craft some language to send with Hal Ricker next week?
Ted Rogers: Ricker will be meeting with the NASDA marketing people in July and the full NASDA meeting in September.
Margaret Clark: NASDA may tell us that the States have every right to accredit.
Nancy Taylor: do they have enough information to make a judgement?
Jay Friedman: there is a big political process that happens before these regs become implemented - knowing NASDA's point of view would be helpful - engage them in a dialogue.

This Question was posed to Miles McEvoy:
Miles' response: most states will wait to see what happens on the federal level. In Washington they will comply with federal and probably not add additional standards.

Margaret Clark: survey may be the best vehicle for information
Jay Freidman: what is the scope: preemption with a trickle of state entitlement or state can do what they want as long as they are in compliance with the Act?

Rich Theuer: accreditation committee has been given the responsibility of both state and private certifier issues.
Clark: priority of committee is recommending an accreditation program.
Ted Rogers: would it be helpful for staff to send a memo of guidance to the committee about recommendations for state criteria?
Michael Hankin: if Tim Sullivan would be working with Ted Rogers and Michael Sligh to work on something in writing - letter to NASDA, ready to accept the programs, developing the criteria for standards,
Jay Freidman: have a little difficulty with that - Tim has a view already about relationship between state and federal government. This will narrow the discussion.
Margaret Clark: committee has bought into this interpretation.
Jay Freidman: we have had no input from the states, without consulting them, a draft recommendation would be premature.
Bob Quinn: we don't want to approve state programs ahead of the federal program. call for applications for the program is not what we want to do. Get input from those effected.
Michael Sligh: we would work on a draft recommendation for the committee to respond to - a beginning point.
Margaret Clark: also, something for the states to react to.
Bob Quinn: disagrees.
Miles McEvoy: states need to know in general where the standards are going and the general timeline; in addition to the work on accreditation.
Margaret Clark: we need keep perspective about what accreditation is.
Miles McEvoy: the letter (you are discussing) is trying to stop Texas and California from going their own way, ignore them and keep working on your program.
Michael Sligh: letter could come from USDA-we are getting ready to discuss the state programs- here are our ideas- how do you react.
Nancy Taylor: we don't have to get involved in this criteria thing.
Clark: I would like to have Michael Hankin's comments on paper -that would be helpful.

<u>It was agreed that USDA would initiate comment on this particular project.</u>

Michael Hankin: can I work with Tim Sullivan on this project?
Margaret Clark: ok with the chair - then USDA might decide to send letter to states.
Rich Theuer: a point of clarification - this committee would prefer that accreditation be a federal activity rather than a state activity - this is my position - not an opinion on Tim's position
Jay Friedman: the committee is taking a position that would ask the Secretary to take action which would go against Texas and California which are two of the largest delegations in Washington. We should be cautious about our actions and also the messages to the public.

Margaret Clark proposes: that since we have an application out for comment, USDA can take this application and turn it into a narrative form, and give it back to the committee for response.
Nancy Taylor: what is the purpose?
Margaret Clark: it serves the committee to get the information we need.
Michael Hankin: point of clarification- the USDA will take the application form, and publish it in federal register for comment.
Tim Sullivan: will we move on accreditation as a whole before everything else? is this discussion in context of that?
Margaret Clark: we did not resolve the questions of timing or moving parts ahead of the whole.
Tim Sullivan: I suggest that the committee come to consensus on developing an accreditation program which can be published in the federal register. Put out rules so process can start.
Margaret Clark: do proposed rules include request for information from all those who want to be involved?

Rich Theuer: Would this be a notice in the federal register for notice of accreditation?
Michael Hankin: it would spell out what accreditation will be - the proposed rulemaking.
Margaret Clark: is it also the application? would they then begin to respond to it by applying?
Michael Hankin: no, not fill out the applications but comment on the form of the applications and process.

Bob Quinn: I move that we make a recommendation to the board that accreditation process move forward separately from the entire program.
Jay Friedman: does this motion include state approval process, also? we still have questions about how states will be handled, we should not move forward until we have this resolved.
Bob Quinn: I would think we would move forward without resolving these issues.
Jay Friedman: I would not support favoring one sector over the other.
Bob Quinn: accreditation process and approving state programs are two different programs.
Michael Sligh: what are we suggesting: are we urgeing USDA to implement a component of the organic title - by putting the accreditation program in the federal register as a proposed rule, comments would come in (to whom) and then it would go out as a final rule.
Michael Hankin: comments come back to USDA, before it gets published in federal register again as a final rule, it goes to OGC.
Jay Friedman: accreditation committee is out of the loop once it goes to public notice.
Michael Hankin: point of clarification: once we finally develop the wording for the accreditation program, comes to the board and committee for final approval, before it goes to OGC for final review, from that point on the committee and board are not in the rule making, published as a proposed rule, comments come in to USDA, commitee and board do not see comments, final rules then go out.
Margaret Clark: by September, we finish our draft, we give it to the department, USDA writes regulatory language - sections, subparts, regulatory references, introductions, etc., comes back to committee to develop final wording, and then after it goes to OGC as a final - the committee is no longer involved.
In September our work goes to full board, board approves - does it go out to public comment one more time?
Michael Hankin: because livestock would be having hearings soon, it would not be necessary to have public comment on recommendations from that committee. I would like to ask that the public comments on draft 7.1 suffice as the final round of public comment. The USDA asks for recommendation from committee and board but the USDA needs to be trusted to move it forward into regulations.

Proposed change to motion:
The accreditation committee concurs with the USDA intent to move forward with the accreditation program forward into the regulatory language.
Comments:
Miles McEvoy: the states will continue to develop their own programs in lieu of a federal program. Leave state program approval until there is a full program. Move forward on accreditation.
Jay Friedman: please clarify - is it state approval and accreditation?
Bob Quinn: No, not state approval
Jay Friedman: then I disagree and would like to see them move forward together.
Michael Hankin: once we send proposed rules to OGC, the review may have an adverse or beneficial effect on a particular company. We can't then talk about it because it would give unfair advantage.
Jay Friedman: is this board treated as a private party - I would like the board to be included in the review of public comment.
Rich Theuer: originally we were told that we were exparte once it went into rulemaking.
Question: what is exparte?
Answer: outside of the discussion.

Tim Sullivan: formal rulemaking process is the end of the committee's role in recommendations. assume all recommendations are taken into consideration before the rulemaking.
Bob Quinn: if this moved ahead, it would not be complete because it did not deal with the rest of the program. Are we saying now that accreditation does not have to wait for the rest of the program. Need a way to bring it along with the whole program - How?
Michael Hankin: when we go out with the final rules, it will go out with stars where incomplete.
Bob Quinn: it gives us an opportunity to see on a small scale how the big scale will work - build trust, see how it works, educate the full board.
Margaret Clark: agrees with motion but also agrees with Jay. accreditation draft needs to define accreditation as a federal activity. If we define entire approval process - may not be necessary.
Tim Sullivan: also agrees with Jay, but understands the functional process that is making this necessary.
Nancy Taylor: explain approval and accreditation processes and how they are different - this would be valuable.
Jay Friedman: if you move ahead with the accreditation program without the states, you are creating an unfair condition for the states. if you put in something about pre-empting state law, you are opening up to litigation.
Rich Theuer: certifying agent, state or private, can put in their submission.
Michael Hankin: this is the department's role not the committee's role.
Rich Theuer: we can only do so much, there are things that the department does and things that lawyers can do.
Bob Quinn: private groups and states are on equal grounds because the rest of the program are not done. Everyone will continue as they are until the entire program is done.

Margaret Clark: Call the question: The committee recommends to the board that the accreditation process move forward in the rule making process separately from the total program.
favor: 2, opposed: 1, abstain: 3

Margaret Clark: I suggest we have private conversations, rework the language and come back for a vote.
Rich Theuer: wants to get from Jay why the state is not favored under this motion.
Jay Friedman: this motion does not move state approval forward (which is different from accreditation) once they are approved as a state program, they are a cetifying agent. Can't certify after Oct 1, 1993 unless you are accredited or approved - privates will be accredited, states will not be approved - unfair.
Michael Sligh: standards have not left station yet, accreditation program goes forward - how do they catch up?
Explained by the committee members as explained earlier by Michael Hankin.
(Michael Sligh had been out of the room during that part of the discussion.)
Tim Sullivan: there are problems moving forward like this: identify where there are the greatest problems but then, need to take a stand based on assessment of risk/benefits.
Rich Theuer: don't underestimate the cabability of the department. there will be gliches, that's why there are technical corrections. we will have our opportunity for comment before the final rulemaking.

Michael Sligh asked for reconsideration of the question. Rich moved, Bob seconded the motion. Jay objects to voting again. all others approved.

Michael Sligh apologizes for being out of the room. did you list out the pros and cons of this recommendation? is our rationale clear? here are our arguments for and against?
Margaret Clark: we will designate speakers for majority and minority positions.

Bob Quinn reread the motion: favor:5 opposed:1

Bob Quinn will prepare presentation to the full board.
Jay Friedman will prepare minority opinion.

Discussion of Peer Review Panels:
Margaret Clark: The peer review models in 7.1 are out for comment to the public now. No final recommendation can be made until comment period is over.
As a process, Margaret Clark suggested that each committee member go around and talk about their original proposals. Nancy Taylor has done some work on costs (see memo to the committee.)

Presentation by Nancy Taylor of her work on program costs.
The basis for costs of peer review process are estimates. The number of calls and meetings will significantly effect the cost.

Conference calls: 49 cents per minute
Per diem $80.00 per day including room and board
National $600.00 per person airfare
Regional $350.00 per person airfare
State $250.00 per person
Postage $15 per person per panel
USDA staff 22.50 per hour

Comments:
Margaret Clark: This cost estimate was done as a basis for comparison of options presented for peer review. Options come in very close to each other when cost basis is applied.
Rich Theuer: option A: no-starter based on public input
Margaret Clark: option B1: broad based constituent national panel. like the elective model. I feel there is support for the regional panels but also feels that there needs to be national as well as regional.
Hal Ricker: option B2: national peer review - smaller group to meet for two weeks, willing to entertain some changes but keep numbers down and the cost down.
Michael Sligh: Option C: trying to balance cost with participation. key places in the law where the public has a hands on role to play. My model was the most extensive public participation and costly of the models. broader view of who are the peers. can be flexible about this. if you have a regional model, you have to have a national oversight.
Margaret Clark: model presented yesterday was similar to Michael Sligh's proposal. Cost needs to be looked into.
Michael Sligh: wants to empower the public to have a role to play. wants to debate whether consumers should be involved in the peer review.
Nancy Taylor: Option D: regional peer review with 4 members each. better understanding of regional environment and certifiers. one of each region will meet as the national peer panel - not necessarily in person.
Margaret Clark: is the entire accreditation process taking place within the peer review?
Bob Quinn: Option E: may be the cheapest but not maybe the best. like the idea of a national body for consistency. selected by the Secretary from a pool submitted by the regions/states/constituencies. waivering on consumer representatives - not peers, not involved in certification, don't have the expertise.
Option F: presented yesterday by Eric Ardapple-Kindberg in modified form.
Margaret Clark: I would like to summarize the areas where there seems to be agreement in the models and take a straw vote:

national coordination (all in favor),
regional representation (all in favor),
regional election (all in favor),
constituency of the panels would be those effected
[farmers, handlers (all in favor) certifiers (all in favor) state official of an approved state program (put aside for a following discussion)]

Rich Theuer: let's the use language in the law to describe the members of the

peer review panel: expertise in organic farming and handling wherever they are - whoever they are.(2117B) (all in favor) ****

Hal Ricker: peer review is an operating body - can't be too large that it becomes an advisory board. public comment included all along the process - not necessary in the peer review.
Nancy Taylor: peer review - we are not even considering the evaluators for the second phase - this is additional expense.
Bob Quinn: could a peer review panel exclusively operate on conference calls?
Hal Ricker: it would depend on the panel - depends on paper that would have to be provided for a call to work.

Margaret Clark: I suggest a change: use the language but specify producers, handlers and certifiers. (all in favor)****

Discussion of the Committee's Workplan:
Rich Theuer: USDA will send us comments on the first and the fifteenth of the month.
Margaret Clark: committee members please state what they see needs to be done.
Nancy Taylor: there is usually a 10 or 7 day turnaround - could it be 5 working days for USDA to turn around documents?
Michael Hankin: would have to speak to Julie about that. would try to meet your deadline.
Rich Theuer: This is a short timeline - to expediate the process, we should circulate our sections to each other and USDA, don't rely on USDA or Margaret. before the 15th of September it would be impossible for any documents to be done - due to August vacation schedule.
Clark: The work that needs to be done: Peer reviews, appeals, state language in accreditation document, glossary, question of approval of state programs and language which defines difference between approval and accreditation, costing peer review, statutory references.
Michael Hankin: don't base recommendations on any legal intepretations, base it on opinion of the program as a whole, taken to OGC for legal review.
Margaret Clark: committee members will take up with the tasks they have already agreed to.

Michael Sligh & Nancy Taylor: peer review
Michael Sligh: appeals
Rich Theuer: language, state approval
USDA: glossary

Margaret Clark: in accreditation application, there is still language which confuses accreditation and approval. Is Jay willing to go through the application to clarify the language?
Friedman: YES.
Clark will send 7.1 on disk to Friedman and USDA.
Nancy Taylor: 7.1 needs editing - for consistency.

Michael Sligh: one model from the public for peer review was presented yesterday - have we heard from certifiers on 7.1?
Margaret Clark: there are several avenues for their input and the deadline for comment has not passed yet. Can the OCC (Organic Certifiers Caucus) help put together the certifiers thoughts?
Robert Beauchemin: OCC does not have the mechanism to come out with a consensual position. Depend more on individual comments from certifiers. There may be some common views held which can be presented. Certifiers are waiting to see it in its final version before they respond. Those not following the complexities of the issues, will feel threatened when the final draft is presented.
Pat Leonard: 3 decades of unregulated organic marketing - because of that, there are cliches formed in the industry. When you (the committee) are looking out there for comments, dig out the comments from those who are not vocal. Farmers do not want to cross the certifier - because the certifier controls the farmers destiny. Farmers go to the certifier who is the cheapest and the easiest.

Nancy Taylor: by the last week in July, there can be a draft on peer review - let's schedule a conference call that week. draft will be sent to committee by the 12th. conference call set for July 30th. 7:00 AM PST - 10:00 EST.

Jay Friedman: I would like to wait to redraft the language on the application as it applys to states until after discussion of state approval process.
Rich Theuer: state approval discussion -let's set a conference call August 6th and the drafts will be sent by Monday of that week
Michael Sligh: appeals - Let's do that on conference call August 6th.
Bob Quinn: If we can have a complete draft by September meeting, and if board approves next draft which is then sent out for public comment; then, a final recommendation could go to Secretary after next meeting (November ?)
Rich Theuer: I thought there was not going to be another set of public comment.
Michael Sligh: do not agree - I would like to discuss this. Draft #7.1 was not a final draft - there were 5 options for peer review in that. Not fair to the public to circumvent their comments on the final draft.
Bob Quinn: I am going to propose that it does go out to the public.
Margaret: Let's put our motion to the full board as we had decided earlier. could add an amendment when presenting to the full board concerning a final public comment period.
Bob Quinn: if USDA could put regulatory draft together by November, then both could be presented/voted at the same time.
Michael Hankin: this would be difficult

Michael Sligh: I would like to see a vote on having an additional public comment period (4, favor- 2, opposed)
Margaret: I suggest we put "going forward" motion separately then discuss with full board the additional comment period. committee agreed.

Meeting adjourned at 12:10PM.

NATIONAL ORGANIC STANDARDS BOARD
CROP STANDARDS COMMITTEE
MEETING
July 10, 1993
MINUTES

Prepared By: Julie Anton & Joann Stewart

PUBLIC INPUT

WALTER JEFFREY

Kalium requested a soil biochemist, Washington State University (WSU), to complete a computer search on the effect of potassium chloride on soils. WSU's research found less than 25 publications [see attached handout] regarding this subject. KCl is not known to be toxic within reasonable osmotic ranges (i.e., -5 to -25 bars): Chloride acts as a nitrification inhibitor. WSU's conclusion is that KCl would have a beneficial effect on soils and soil life. Suggestions were put forth regarding replacements for langenite or naturally mined potassium sulfate, but it was determined that replacements are not suitable. Gene Kahn requested that Mr. Jeffrey document the steps of developing potassium sulfate. Craig Weakley asked Zea Sonnabend whether KCl has been reviewed by California Certified Organic Farmers. Ms. Sonnabend responded that a review has been initiated but she did not bring references to present to the Board.

TIM DEBUS (Registration Specialist, Mycogen Corporation) and DR. JERRY FEITELSON (Manager, Department of Molecular Biology, Mycogen Corporation):

Mycogen's Bt product is the first and only genetically engineered product for crops to be approved by the EPA. [See attached handout.] The chemical fixation process destroys and fixes the P.f. cells encapsulating the delta endotoxin crystal within the walls of the dead cells. Mr. Weakley asked whether these are natural or synthetic substances and was informed that the gene is identical. This is a routine biochemical processes that occurs naturally. Bt genes could get into P.f. cells in nature, but this is extremely unlikely. The spore in the Bt cell is eliminated when the gene is transferred. The process to destroy the cell is to drop the Ph with vinegar (acidic acid). The "Cellcap" process was explained as a biochemical process using enzymes, rather than a chemical process. Processes that occur during recombination use the same enzymes that occur in all cells in nature. Whether or not phytotoxins from bacteria are a compatible synthetic under the OFPA is a question before the Crops Committee.

Benefits for organics industry: Mycogen's Bt product has received an exemption from the establishment of a tolerance level by EPA, no residues are possible. The Bt toxin is highly pest-specific.

Brian Baker inquired as to what kind of precedent would be set if this product were allowed. Destroying cells turn the substance into a biochemical rather than a life form. Cellcap poisons the insects and stops the feeding, but it takes a day for the insects to die. Predators can feast on the larvae, since the insects are not dead but poisoned with a toxin that is not toxic to the predators. Mr. Weakley pointed out that the issue before the Board is really rDNA technology and asked whether any transgenic rDNA products are compatible.

DAVID HAENN (Ozark Small Farm Viability Project)

Only mushrooms grown on logs should be considered organic. (The conventional method of mushroom cultivation typically involves bins of sawdust.) Logs should not be treated for three years. Mushrooms have a high market value in Japan where they are perceived as producing health benefits. A $2 log can produced $15 worth of product. Mr. Haenn does not view shiitake mushroom production as wildcrafting. Spores for inoculation should come from a reputable source or be developed in a closet at the farm site. Mr. Haenn believes this is a good side industry for loggers: logs which would be junk could be sold to mushroom producers. Oystershell mushrooms can also be grown on logs. The real market is in dried or fresh shiitakes. The dried whole mushroom market is almost as big as the fresh market.

SMALL FARMER EXEMPTION FROM ORGANIC CERTIFICATION
Presented by Dean Eppley.

The Committee discussed the affidavit and declaration format. It was agreed that since a declaration does not need to be notarized, the declaration form would be used instead of an affidavit form. Julie Anton pointed out that as it has not been established that there will be a USDA seal; thus, the Committee agreed to change lines 27-29 to read: "A small farmer who sells or labels an agricultural product as 'certified organic' must be certified by a USDA-accredited certifying agency, as proclaimed in the OFPA." Ms. Anton also pointed out that the exemption is for farmers with $5000 or less in sales from organic and non-organic agricultural products, and suggested splitting lines 34-37 into two parts. Unanimous vote elevated this document to a Committee Recommendation to the Full Board #1.

PESTICIDE & FERTILIZER DRIFT AND MISAPPLICATION POLICY,
Recommendation to the Full Board #2

The Committee discussed revised version. Mr. Weakley described edits to the language made for clarity. Mr. Eppley pointed out that reference to "county official" does not apply in ever instance as there are situations where a county or designation does not exist. Also, an abatement district is State-level. Ms. Anton inquired about the inclusion of Nancy Taylor's concern about notifying potential

drift applicators. Mr. Kahn and Mr. Weakley indicated that lines 71-74 are adequate to cover potential drift incidents as it would be too difficult to notify all potential applicators. The Committee decided to change "State or county agricultural official" to "public official." Mr. Kahn pointed out that the language referring to residue testing leaves discretion to the certifying agent. Mr. Weakley stated that the certifying agent must operate under the residue testing requirements of the OFPA. K. Chandler suggested adding "all appropriate expenses" to line 55. The issue of training of pesticide applicators will be addressed in a separate letter to the Secretary. Motion to approve was unanimous.

The Botanicals policy will be presented to the full Board.

MATERIALS TIMELINE

Ms. Zea Sonnabend summarized the discussion of Materials list that was presented at the May meeting and identified the following list of materials still in question:

amino acids
parapheromones
sunflower hull ash
ash of all different sorts
synthetic vitamins
reclaimed water
- sewage sludge
potassium permanganate
insect growth and production inhibitors
Mycogen Bt product
leather by-product

Ms. Sonnabend suggested making the Allowed Naturals with Restrictions into an addendum. Tom Stoneback indicated that allowed naturals with restrictions would not have to go through the petition process but would have to be reviewed by the TAP. Uses beyond the restrictions cited would have to be petitioned. Mr. Kahn and Mr. Weakley expressed concern about a "Prohibited natural with exemptions" designation. Lynn Coody and Ms. Sonnabend suggested this would cause confusion in the grower community. Mr. Stoneback described current TAP process. Items that have universal agreement should be "fast-tracked." Mr. Kahn asked about the timeline for a response on the above-listed ten items. Ms. Sonnabend will work on synthetic and extraction definitions again. Mr. Kahn will work on other definitions and an interpretation document.

SPECIALIZED STANDARDS FOR GREENHOUSES
Presented by Zea Sonnabend

Ms. Sonnabend presented a draft from certifying agency standards that are present in effect [See attached]. Mr. Weakley suggested a "permanent" wall be utilized and Ms. Sonnabend noted that it is common in California to have a "split" greenhouse. Mr. Kahn noted strawberry transplants often start in greenhouses in Washington. Ms. Sonnabend discussed standards regarding potting soil mixes. Mr. Weakley inquired whether it was burdensome to require separate soil mixing machines wherein Ms. Sonnabend reply that it was burdensome. David Haenn stated there is a three-year requirement for site and that pasteurization occurs at 180 degrees. Venting of air from non-organic part of the greenhouse should be considered.

SPECIALIZED STANDARDS FOR MUSHROOM PRODUCTION
Presented by Zea Sonnabend

Ms. Sonnabend presented a draft from certifying agency standards that are present in effect [See attached]. Ms. Sonnabend stated that spawn is cultured in a laboratory environment and that organic spawn is not commercially available. Mushrooms are watered with chlorinated water during production/button stage. David Haenn stated that a closed environment requires so much sterilization that it could not be organic. Funguses may take over a year to grow. The practices of harvesting logs should be sustainable. Mr. Kahn suggested that cryogenic storage of shiitake mycelium be allowed. Mr. Haenn suggested that a grower could make his/her own spawn; if the product is not sold, there is no need for government inspection. Brian Baker added that operations are certified, not sites. OFPA Section 2109(a) addresses seedlings. Mr. Kahn noted that Ms. Sonnabend's documents should be officially considered a literature search and not a working draft. Rod Crossley raised concern about a possible prohibition of cryogenic freezing. Mr. Kahn pointed out that the NOSB Processing Committee has endorsed cryogenic freezing.

Ms. Sonnabend briefly discussed maple syrup and tissue culture transplants. Mr. Haenn suggested that sorghum syrup, which is similar to maple syrup, be reviewed as well. Mr. Kahn asked Mycogen Corp. representatives for suggested technical advisors and was provided the following persons:
President of Invitro Society, Mike Horn; and
Plant Transformation Manager at Mycogen.

Mr. Kahn has received inquiries regarding early generation potato seed and requests input regarding this. Dr. Jerry Feitelson offered his services as a Committee contact. Mr. Stoneback suggested as an advisor for tissue culture research and asked to be kept in the loop on tissue culture discussion.

Mr. Kahn stated that tropical products shall be covered under generalized crop production standards. Ms. Anton suggested that the Committee look at coffee production standards as organic coffee is grown in Hawaii.

SPECIAL REQUIREMENTS FOR CERTIFYING AGENTS
The following suggestions for the NOSB Accreditation Committee were made by Committee members:

1. Restrictions on inputs compliance;
2. Minor infractions;
3. Whether inspectors can be growers and whether growers can sit on certification committees;
4. Thorough and comprehensive knowledge of organic farming.

Mr. Kahn stated that he did not see a reason for the Committee to pass judgment on a certifying agency that includes growers in its certification decision-making process. Miles McEvoy stated there may be many different models for certification programs; i.e., agricultural inspectors may be used. Mr. Weakley inquired whether or not there should be a general continuing education component. Mr. McEvoy explained how Washington State's Department of Agriculture sends inspectors to pest control seminars in order to keep informed. Mr. Weakley suggested some general recommendations for certifying agent qualifications: (1) knowledge of organic farming; (2) familiarity with organic laws; and (3) annual continuing education. Mr. Kahn will summarize this information in a letter to the Accreditation Committee.

ORGANIC FARM PLAN

Mr. Weakley suggested that the Farm Plan include required components only, following the Processing, Handling Committee's handling plan. The following language was inserted by the Committee at line 67: "Essential components of all farm plans" The Committee decided to integrate livestock concerns into preamble of the Farm Plan and add a livestock questionnaire to the end.

CODEX
Discussion of Codex was postponed as Bob Quinn, International Committee representative, was not available for a presentation.

DEFINITION OF ORGANIC
Mr. Weakley expressed opposition to participating in defining the term "organic." Mr. Kahn addressed the term "organic" in that it means grown or handled in accordance with the OFPA." Mr. Chandler pointed out that in the scientific community, there is a real need to define organic. Mr. Weakley prefers not to develop a definition of "organic" without the full participation of the organics community. A simplistic definition of "organic" was determined to be satisfactory among all Committee members.

REVIEW OF COMPREHENSIVE DOCUMENT

The Committee decided to reorder the components of the comprehensive document prepared by Joann Stewart.

Reorder:
1. Organic farm plan
2. Split operations
3. Inputs for organic crop production
4. Botanical pesticides policy
5. Planting Stock Policies
6. Residue testing
7. Emergency spray
8. Drift policy
9. Small farmer exemption

The definitions will be listed alphabetically, with the OFPA definitions separated from the Committee definitions. Interpretations of the OFPA definitions will be presented. The Committee determined that other definitions which should be included in the comprehensive document are:

synthetic
extraction
restricted
allowed natural
allowed synthetic
prohibited substance
split operation
prohibited substance
commercially available

WORKPLAN

1. Definitions - defined in conjunction with other NOSB Committees

2. Materials to be addressed by Committee before sending to the TAP

   Ash
   Mycogen-type product
   -- killed microbial pesticides
   leather by-product

   [Do not need to work on potassium sulfate.]

3. Work on wording for arsenic restrictions.

The Committee is waiting to receive summary position papers on cotton defoliation. CCOF will provide a description of the issues regarding cotton

defoliation. A representative from the National Cotton Council stated there are production practices that can help use less synthetic pesticides. Regions where there is no early frost do not experience defoliation problems. California and Texas typically do not experience early frosts. Names have been submitted by the National Cotton Council for technical advisors.

Soil improvement guidelines need to be addressed. Ms. Sonnabend has submitted suggestions which will be reviewed.

The Committee briefly discussed brand-name guidelines for certifying agents. Mr. Kahn requested that certifying agencies who handle brand-name requirements provide written input.

The following items are listed according to the priority in which they need to be addressed by the Committee:

1. Farm plan
2. Inputs
3. Definitions
4. Specialized standards
5. Consolidation
6. Soil improvements
7. Brandname guidelines
8. Cotton defoliation

August 16 was set as a deadline for developing the following documents for full vote at the Board meeting in September:

1. Integrated farm plan
2. Inputs resolution
3. Soil improvements
4. Definitions

Conference Call agenda:
Specialized standards issues [Julie will make list of issues]
Brandname guidelines

NATIONAL ORGANIC STANDARDS BOARD

Minutes of meeting July 11, 1993

Members present: Michael Sligh, Margaret Clark, Eugene Kahn, William Friedman, Craig Weakley, Merrill Clark, Nancy Taylor, Richard Theuer, Gary Osweiler, Donald Kinsman, L. Dean Eppley, E.K. Chandler, Robert Quinn.

USDA Members: Harold Ricker, Michael Hankin, Julie Anton, D. Ted Rogers.

Chairman Michael Sligh opened the meeting at 8:10 and presented an agenda for the meeting which was accepted.

A discussion was initiated concerning the recording of minutes during the Committee meetings. It was decided that the Chairperson would have the discretion to either seek volunteer help or request a Committee member to accept this responsibility. If neither option is available, then a USDA staff person would record notes using a laptop computer if possible, and provide the Committee chairperson with a disk of the draft notes. A motion was made to accept this proposal and the proposal was approved.

The next topic of discussion involved the possibility of USDA preparing an outline for the proposed rules. It was suggested that each Committee chairperson should supply USDA with a workplan before July 16, and that USDA would attempt to provide the Board with a regulatory outline for discussion before September 15. The proposed outline will be placed on the agenda for the September meeting. A motion was made to accept the proposal and the proposal was approved.

Discussion then moved to the dates of the September meeting. It was decided that Sunday, September 26, will be a travel or tour day, and the Board meeting would commence on September 27 and continue through noon on September 29. The full Board will meet each day and Committee meetings will be held, if necessary, at night. Public input will be on Monday afternoon. The Board meeting will tentatively adjourn at 3:00 on Wednesday. A motion was made to accept the proposal and the proposal was approved.

Establishing possible future meeting dates after the September meeting was then considered. The first week of November (1-4) in Texas or North Carolina was tentatively approved for the subsequent meeting, with the next meeting possibly held at Asilomar in January either before or after the Conference (January 19-22, 1994).

After a brief discussion and agreement by all persons involved,

it was decided that the Executive Committee would examine USDA's request to modify the working draft and position paper protocol (in order to make more staff time available for program writing) on the next Executive Committee conference call.

Processing Committee Report

Rich reported that they received good input from industry on drafts and subsequently made revisions in the Committee. Many were opposed to having the percentage organic declaration on the principal display panel. The Committee presented its proposed Board draft recommendation for food labeling and percentage declaration. The need to redefine the scope of the recommendation to foods containing multi-ingredients, as compared to fresh produce, was stated. Also debated were the requirement that the certifying agency and its place of business be identified on the information panel, and the need for certification for organic processors producing foods with less than 95% organic ingredients. Some organic industry representatives have expressed their desire to have certification identification on foods containing 50-95% organic ingredients. Since the Accreditation committee is also discussing the use of certification statements and seals, this issue will be discussed at a later date by the joint Committees.

The following revisions to the labeling document were discussed:

For the calculation of the percentage of ingredients:

1. (b)3 add "if water of reconstitution is included in any part of the ingredients, it has to be considered for all."

K. Chandler suggested that on page 1, to strike under 1(c) "or a similar phrase," and the Committee and Board concurred.

On b(3) after the comma, add a phrase after "concentrates" to read, "in that food."

Page 2: 2(b)4 - No percentage on principal display panel.

Point number 5 - No percentage declaration.

Add a new Section G: Name and place of business of certifying agent, who certifies the handler shall be included in label information panel. Using words "certified by (FDA code)" in lieu of the address is permissible if the address can be found in the phone book.

50% or more organic: deleted prior terms so now can "made with organic ____" can be stated on principal display panel.

For d3, refers to organic certified by USDA certifying agent.

Last page, point 5(a) defined ingredient and processing aids.

All ingredients have to be identified.

(b) Going for full disclosure label.

K. Chandler responds that full disclosure stifles free enterprise, and Gene Kahn believes that full disclosure releases recipe.

Vote on (b) by the full Board: 4 Yea; 6 No; 4 absent.

Vote on 5(a): 9 Yea; 1 Abstention; 4 absent.
Sections 1 and 5(a) of the labeling draft recommendation were approved. Sections 2, 3 and 4 will be reconsidered by the Committee to further develop the proposals regarding spice and flavor identification and the need for certification of producers of the various categories of foods containing organic ingredients.

Livestock Committee Report
The Committee presented its position paper on livestock sources. This paper briefly discusses the sources from which breeder, slaughter, dairy, and poultry stock should originate. It was agreed to substitute "organically managed" for "raised," throughout the document. The paper was accepted by the Board (13 Yeas with 1 No) as a draft recommendation, along with the inclusion of a minority statement regarding the possibility of producing organic beef from an animal fed organic feed for only a 12 month period (similar to the milk provision for dairy). At the request of USDA, the recommendation will be held from being mailed for public comment until the status of the livestock hearings is determined by USDA.

Materials Committee Report
The Materials Committee will be moving at a faster pace now to acquire the background information necessary to prepare the National List, including formation of the Technical Advisory Panel. The NOSB Committees will provide lists of substances with relevant usage information on each substance to the Materials Committee by September. USDA, in co-operation with the Board, will begin selection of the Advisory Panel members and develop guidelines under which the Panel will operate.

Kay Chandler will be working with the Association of Agricultural Control Officials to propose rules for using the word "organic" on the label of fertilizer packages.

USDA will supply some available information on botanicals to the Board for their initial review of botanical usage in organic production.

Crops Committee Report
Dean Eppley presented a draft of the Small Farmer Declaration which would be required for farmers selling less than $5,000 in agricultural products annually. The declaration indicates awareness of provisions in the OFPA of 1990 and would be filed with accredited certifying agencies. The draft was accepted with amendments that States could issue additional requirements and that the small farmer exemption did not allow these products to be sold for use in certified organic products. Vote: 9 Yea; 2 No; 1 Abstention; 2 Absent.

The draft recommendation on drift and misapplication of

fertilizer and pesticide was presented by Craig Weakley. The sections concerning required actions by producers and certifiers and the status of affected agricultural products were accepted. The section requesting Federal indemnity for losses was removed and will be submitted as part of a separate document. The vote to adopt as a draft recommendation was: 11 Yea; 2 No; 1 Absent.

Accreditation Committee Report
The Committee reported that it will be developing criteria to be used by USDA in evaluating State organic certification programs for consistency with the National Program.

The Committee also reported on a discussion during the week concerning the placement and meaning of certifiers' logos on foods containing organic ingredients. Questions were raised as to whether the placement meant that the foods were certified according to the Federal standards or to additional requirements that the certifying agencies may be permitted to represent. This topic will be the subject of future meetings.

Additional reports were received on the Peer Review Panel and the impact of the October 1, 1993 implementation date. It was agreed that there would be no interim regulations, but that there is a need to move forward with the recommendations. Brief reports were related concerning the need for USDA to initiate rule writing for the accreditation program, appeals and enforcement ideas, and peer review panel composition and function.

The Committee chairperson reported that the Accreditation Committee approved by vote the affirmation for USDA to proceed with writing and publishing the accreditation program separate from the other regulations. However, the Board was not being asked at this time to approve the Committee's action until the Committee could more clearly explain the new process to the Board. Staff was asked to look at the PACA appeals process and the general USDA appeals process.

On the Peer Review Panel, Margaret Clark indicated a preference for an elected panel, but recognized that there are no provisions for it in the Act. They expect to receive public input on their July 1 draft by August 15, 1993, and they have asked Michael Hankin to discuss with Julie Anton her availability to work on a Glossary.

USDA and the Committee want to move ahead on accreditation to show results and progress, to alleviate concern about the October deadline, and to develop trust for the USDA.

There was a motion to move the accreditation program forward without waiting for the full program development. Margaret Clark then urged defeat of the motion. The Committee withdrew the motion unanimously. There was some discussion about the need to

keep the accreditation process moving.

International Committee Report

Friedman reported that a working draft guiding the certification of imported products has been approved and will be sent out for public comment. Also, the need for the International Committee to continue operating separately from the Accreditation Committee was reenforced.