

MONTANA ORGANIC COMMODITY ADVISORY COUNCIL
Business Meeting — March 5, 2003
Helena, Montana

CONFERENCE CALL ATTENDEES:

Council Members

- Judy Owsowitz, Producer
- Bob Quinn, at Large (absent)
- John Hoffland, Consumer (absent)
- David Oien, Handler
- Nancy Matheson, Producer
- Mikel Lund, Producer
- Bob Boettcher, Producer
- Ralph Peck, MDA Director

MDA Staff Members

- Greg Ames, ASD Administrator acting as chairperson on behalf of Ralph Peck in his absence
- Doug Crabtree, Organic Certification Program Manager
- Debbie Stone, Administrative Assistant
- Steve Baril, FSB Chief

Director Peck called the meeting to order at 8:55 am. He expressed his gratitude to everyone for the contributions they have made to the MDA Organic Certification Program. Director Peck had another appointment to attend so he excused himself 9:00 am.

Greg requested a formal approval of the February 5, 2003 meeting minutes.

A motion was made by Bob Boettcher to approve the February 5, 2003 meeting minutes.

David Oien seconded the motion.

The motion to approve the February 5, 2003 meeting minutes passed unanimously.

New Business

Steve Baril brought for discussion the need for a contract to develop an "Export Certification Module".

Judy Owsowitz asked what would be the future responsibilities for the MOCAC members once the Administrative Rules have been approved.

After the council completes the program review (in April) they may choose the next course of action they would like to take.

A meeting has been scheduled for March 11 for the subcommittee (John Hoffland and Nancy Matheson) to review six applications. They will present a report to the council on the results of their review.

Old Business

Review of Draft Administrative Rules

Rule VII. ANNUAL REPORT AND ASSESSMENT FEES

Discussion:

- If you are a producer and a handler, which fees do you pay? Do you pay both?
- Doug stated: If you handled your product, then you pay only the handler fee. If you only produced your product, then you pay a producer fee.
- A decision was made to try the rule as written for one year, then make changes if necessary

It was the consensus of the council to have the department wordsmith Rule VII, subsection (1).

It was the consensus of the council to add a new subsection (1)(c) which reads:

- (c) If a producer or handler chooses not to continue certification, their sales report and assessment fees are due on the anniversary date of their previous application.

It was the consensus of the council to accept subsection (2) with no changes.

It was the consensus of the council to revise subsection (3). Subsection (3) will read as follows:

- (3) The assessment fee on gross sales for production certified by the department and one or more additional certifiers is as follows:
 - (a) For sales of products represented as certified by the department, the assessment fee is 1% of gross sales exceeding \$20,000.
 - (b) For sales of products represented as certified by a certifier other than the department, the assessment fee is .5% of gross sales exceeding \$20,000. This rule provision becomes effective on January 1, 2004.

It was the consensus of the council to add a new subsection (4) which reads:

- (4) The assessment fee for handlers certified by the department and one or more additional certifiers is the same as the assessment fee for handlers certified only by the department.

Nancy Matheson made a motion to approve the intent of Rule VII with the above noted changes.

David Oien seconded the motion.

The motion passed unanimously.

Rule IV. STATE SEAL

It was the consensus of the council to approve the proposed state seal with the understanding that the words will change to reflect the description of the seal as it is presently submitted.

David Oien made a motion to approve Rule IV. STATE SEAL as submitted.

Mikel Lund seconded the motion.

The motion passed unanimously.

Discussion:

- Steve made suggestions for changes:
 - Lower the top tip of large mountain (located on the right) so it does not touch the rim
 - Remove the little mountain located to the very far right
 - Lighten the edges of the middle line slightly
- Nancy suggested we notify Karalee Bancroft of the new seal; Karalee had a large banner made using the old seal. The department agreed.

Rule XI. RECORDS

Discussion:

- Have forms available for applicants
- The dept. cannot require use of specific forms
- The dept. must approve the information provided
- For more information on recordkeeping requirements, see Federal Rule, Preamble page 80555

Bob Boettcher made a motion to accept Option 2 of Nancy's proposal.

David Oien seconded the motion.

The motion passed unanimously.

Option 2 of Nancy's proposal reads: (NOTE: Only the changes made are reflected below.)

- (3) Certified organic producers, except producers of livestock, shall keep the following records for each crop produced:
 - (a) location where grown,
 - (b) storage location,
 - (c) materials applied to plants, soil, water, and products. These records shall include date applied, application rate, and name of material including brand name for brand name products,
 - (d) handling and processing description, date, and location. Location shall include the name and address of the handler or processor, and
 - (e) sales records of organic crops by dollar and product volume, name and address of purchaser where possible, and transaction documentation form number when used,
 - (f) identifying lot number that facilitates tracking the product from field to sale or release of physical control, if appropriate to the type of operation.

- (4) Certified organic livestock producers shall keep the following records:
 - (a) All livestock must be individually identified or marked except poultry, bees and fish, which may be identified by production unit.
 - (b) Receipts for stock and materials must be kept to insure a complete audit trail, and
 - (c) The following records from birth or purchase to sale or release of physical control:
 - (i) All disease and pest management materials administered including dates administered, material identification, dosages and sources,
 - (ii) All purchased feeds including dates purchased, feed identification, quantities purchased, sources, and a copy of the organic certification,
 - (iii) Weight of slaughter animals at slaughter and weight of post-slaughter animal products, and
 - (iv) Slaughter, packing and other handling description, date, and location. Location shall include the name and address of the slaughter, packing plant or other handler.
 - (v) Sales records of all organic animal products sold including dates, quantities or weights. Sales records must include the purchaser's name and address where possible and transaction documentation form number when used.

- (5) Certified handlers must maintain records that track ingredients and certified organic products from receiving through distribution, shipping, or sale. Such records include, as appropriate to the enterprise:
 - (a) Invoices, bills of lading, and producer certificates for incoming products;
 - (b) Date and quantity of product processed or handled;
 - (c) Storage identification and location of incoming product and of processed or handled product;

- (d) Repack data and production run reports; and invoices and bills of lading of products shipped out.
- (e) Handlers must have available, copies of organic certificates for all organic ingredients and products. Organic certificates must be current and correspond to the organic ingredients used in processing. All organic certificates must be from accredited certification agencies.

Rule XIV. COMPLIANCE ENFORCEMENT AND PENALTIES

Discussion:

- Steve suggested we look at the rule later.

Judy Owsowitz made a motion to accept Rule XIV as is.

Bob Boettcher seconded the motion.

The motion passed unanimously.

Rule XV. MEDIATION

Discussion:

- Is an established timeframe needed?
- The State provides mediation training; some council members could attend
- Payment for training is determined at time of training
- The dept. has a policy that describes the conflict of interest rules

It was the consensus of the council to amend subsection (2) to read:

- (2) Mediators must be impartial and knowledgeable about organic certification standards. The department maintains a list of approved mediators that may include members of the Organic Commodity Advisory Council. Applicants for mediation may select a department-approved mediator or may propose a mediator from outside of the department. A mediator shall be chosen by mutual consent. The mediator, prior to being chosen for a specific case, must reveal any actual or potential conflict of interest. If a mediator cannot be chosen by mutual consent, the department shall select a mediator from a pool of mediators in state government outside of the department.

It was the consensus of the council to amend subsection (4) to read:

- (4) Persons may represent themselves or be represented by an attorney. It is understood that any person appearing on behalf of the person that requested mediation will have full settlement authority for that person they are representing. The mediator has discretion in establishing formal or informal mediation procedures. Where persons choose not to be represented by counsel, the mediator may choose to use informal procedures. However, mediators have the option to provide structure to the mediation and to apply rules of evidence and civil procedure as may be appropriate when counsel represents either or both sides.

Judy Owsowitz made a motion to accept Rule XV with the proposed changes.

David Oien seconded the motion.

The motion passed unanimously.

The next meeting (conference call) was scheduled for Wednesday, March 26, 2003, 8:30 to 11:30 am.

Mikel Lund made a motion to allow the State to pursue a contract to develop an export certification module.

David Oien seconded the motion.

The motion passed unanimously.