

THE CULTIVATOR

News From The Cornucopia Institute

November-December 2009

Age of Enforcement Dawns at National Organic Program

The new director of the National Organic Program (NOP) has announced that the “age of enforcement” is at hand. Miles McEvoy highlighted this phrase during an hour-long presentation to the public and National Organic Standards Board members during the NOSB’s November meeting. Will Fantle and Charlotte Vallaeys represented Cornucopia at the meeting.



National Organic Standards Board meeting in Washington, DC.

McEvoy, who assumed leadership of the organic program in October, brings a first-hand view of the problems that have plagued the NOP during much of its recent past. McEvoy directed the Washington state organic program for more than 20 years. He has assisted both

the states of Oregon and Montana with establishing their state organic programs. McEvoy has also worked in the past as an organic inspector and holds a degree in soil science.

For the “age of enforcement” to be successful, McEvoy said that there must be clarity on the access to pasture rule and clarity on labeling requirements. He said that the NOP would begin market surveillance and initiate unannounced inspections of certified organic operations. McEvoy noted that the NOP is developing a “penalty matrix” for civil penalties that will be applied to violations of federal organic regulations.

The NOP, McEvoy added, will double its staff over the next year, adding 15 new employees with the funding increase given the program in the last Farm Bill. The program will “be as open and transparent as possible,” he said, and will seek to collaborate with the organic community and the accredited organic certifiers.

The new resources, combined with the energy and enthusiasm exhibited by McEvoy during his NOSB presentation, bodes well for the integrity of organic food and agriculture. And from Cornucopia’s perspective, it is already becoming evident. During the past two months, several languishing complaints filed by Cornucopia alleging violations of organic livestock management practices on industrial-scale dairies have been reopened and are under active investigation. Cornucopia staff members have had several discussions with enforcement personnel regarding the complaints, some more than 15 months old.

Looking ahead, McEvoy said the NOP will soon turn its attention to a new rule

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Industrial Vegetable Producer Rules That Will Make Local, Organic Farmers “Second-Class Citizens”

Without question, our food safety system is broken. Large-scale, industrialized agriculture is so far removed from natural processes and ecological balance that it provides a perfect environment for foodborne pathogens to thrive—and then be shipped nationwide. Yet instead of proposing to tackle the root of our nation’s food safety problems (in many cases contamination in the water from manure from factory livestock feed lots), representatives of large-scale produce growers are lobbying the USDA to allow them to self-regulate.

Industry representatives such as Western Growers Association and United Fresh Produce Association have put forward a proposal to establish a *Leafy Greens Marketing Agreement*. If officially sanctioned

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Livestock/Pasture Rule Release Coming in January?

The USDA announced that it has finished their rewrite of the organic livestock/pasture rule and sent it to the Office of Management and Budget (OMB) for review of its fiscal impacts. The announcement came during the November meeting of the National Organic Standards Board. It is possible that the rule will be released in January.

The release of the draft rule in October 2008 unleashed a torrent of public criticism. The vast majority of the 19,000 commenters were highly critical of the rule's proposals, which somehow moved well beyond the realm of pasturing and organic dairying and instead expanded into all facets of organic livestock management. Even within the dairy realm, many of the draft rule's proposals would have needlessly harmed organic family dairy farmers while intending to address the abuses occurring on industrial-scale dairies milking thousands of cows in confinement conditions.

Hopefully, the new rule will correct the draft rule's deficiencies. Cornucopia has communicated with USDA Secretary Tom Vilsack urging him to release the new rule as an "interim" final rule. Such a designation would allow for immediate enforcement of the new rule's provisions while keeping the rulemaking door open to public comment and minor changes and modifications should unforeseen problems be found in the new regulation.

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governing the thorny "origin of livestock" issue. The current murky situation has allowed for abuses (bringing in conventional livestock) and the development of heifer ranches "laundering" huge numbers of questionable animals for factory farms engaged in organic dairying. A clarification of the ban on cloning in organics may also be part of the new rule.

In addition, McEvoy announced that the spring meeting of the NOSB will be held in California, with future meetings also rotated around the country to improve the ability of the public and the organic community to provide input into NOP and NOSB discussions. Cornucopia has publicly requested holding NOSB meetings outside of Washington, where they would be more accessible to farmers and consumers, for years. One item of interest on the spring agenda will be a review of how "accessory nutrients," including DHA/ARA oils, processed with hexane, in infant formula, are treated by organic regulations.

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and accepted by the USDA, the marketing agreement would allow a 23-member committee, consisting primarily of industrial-scale handlers and growers, to set nationwide food safety standards for all leafy greens growers wishing to sell wholesale to signatory handlers (distributors). In effect, the proposed initiative would allow representatives of monoculture agriculture to dominate the entire leafy greens farming community—something Cornucopia clearly does not support.

In order to hear from the leafy greens community on their level of support or opposition to a national Leafy Greens Marketing Agreement, the USDA held hearings around the country. Charlotte Vallaey testified on behalf of The Cornucopia Institute's farmer-members at the Syracuse, New York hearing on October 20. She argued that a marketing agreement, controlled by industry representatives, is the wrong approach and does not deserve the backing of the USDA. Not only would it do little to address the root of food safety problems, but the standards developed by industry would likely economically disadvantage small-scale growers.

"In effect, the proposed initiative would allow representatives of monoculture agriculture to dominate the entire leafy greens farming community."

After giving her testimony, Charlotte remained on the stand for a lengthy cross-examination by both industry representatives and the USDA's Agricultural Marketing Service. They clearly disagreed with Cornucopia's strong assertion that allowing industry representatives to develop nationwide food safety standards would be unwise, counterproductive and a potential conflict of interest. Cornucopia's testimony mentioned that industry representatives do not necessarily have the concerns of citizens in mind since their primary concern is with the reputation and profitability of their industry—an assertion that clearly irritated the industry proponents.

The hearings are now over, and some in the organic community are confident that the strong opposition to the proposal has severely weakened the proponents' case. Whether the USDA officials—some of whom clearly favor the proposal—will reconsider and reject the plan remains to be seen.

But our opportunity for public input is not over. The USDA must solicit further public comment before it can finalize a new rule creating the Marketing Agreement. Cornucopia will continue to track this issue—so please be ready to respond to an action alert if USDA does go ahead and proposes a formal rule establishing this ill-conceived, counterproductive and industry-backed initiative.

NOSB Pushes for Tighter Animal Welfare Regulation — A Work in Progress

When releasing its draft recommendations to strengthen animal welfare in organic livestock production this Fall, the National Organic Standards Board’s document stated: “Animal welfare is a basic principle of organic production.” We agree. Animal welfare rules benefit not only the animals that give their lives so we can eat, but also the family farmers who choose humane animal husbandry over high production and a quicker buck.

Ethical organic producers know that their ecologically balanced systems go hand in hand with improved animal welfare. Conversely, industrialized systems that focus on intensive production have been notorious for ignoring animal welfare.

Cornucopia initially expressed concern about the extremely short period of time provided for farmers and the public to review and react to the Livestock Committee’s sweeping proposal. By releasing this just weeks before their November meeting, the breadth of the proposal was given too little time for adequate review and input.

One key segment of the organic industry, however, was able to make their voice heard at the meeting in Washington, DC. The cost and management implications of strengthened animal welfare standards brought a parade of industrial-scale egg producers to the podium. These producers, who have invested in factory style henhouses, that provide ridiculously tiny concrete porches portrayed as “outdoor access” for their tens of thousands of hens, offered a mix of arguments for why chickens do not need outdoor space. One common thread in their public comments was their complaints of the economic burden they would face if forced to provide meaningful access to the outdoors for their animals. Another common theme was that “chickens don’t really want to go outside.”

For organic dairy producers, the Livestock Committee made fewer recommendations since the Livestock standards-Pasture Rule is soon-to-be-released. However, some proposed animal welfare protections for dairy cows were not adopted by the board on their final vote, such as a restriction on milking cows no more than two times per day and reducing the use of replacement animals (indicative of pushing cows for high production and “burning them out). This was apparently strongly opposed by corporations that rely on intensive confinement dairy facilities.

In the end, the Board voted to recommend some changes to the organic standards to improve animal welfare, but rejected certain meaningful standards because they were

strongly opposed by industrial-style producers. Changes that were accepted are too numerous to list—they include various healthcare practices; requirements to keep dairy animals clean at all times; a requirement to maintain a relationship with a licensed veterinarian; housing conditions for calves and piglets (including providing sufficient space to move and non-slip flooring); perches for laying hens; prevention of build-up of ammonia in poultry houses; and the list goes on.

Most notably, a proposed table with stocking densities for indoor housing and outdoor access, that was initially recommended by the Livestock Committee was literally gutted—the table remained but the numbers were erased, making it completely meaningless—after large-scale egg producers voiced their vehement opposition to space requirements for outdoor areas for laying hens.

In a telling moment during the meeting, the Board wanted to run their thoughts by a representative of organic egg producers. Instead of calling to the podium an organic farmer or advocacy group, the Board summoned the lobbyist from United Egg Producers—a trade organization whose

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The Cornucopia Institute Is:	
Board of Directors:	Goldie Caughlin PCC Natural Markets Cooperative Retail Educator Former NOSB Member Seattle, WA
Bill Welsh Organic Livestock Producer Former NOSB Member Lansing, IA	Policy Advisory Panel:
Anne Lazor Organic Dairy Producer Butterworks Farm Westfield, VT	Steve Atchley, MD Organic Cattle Rancher Colorado
William Heart Wildlife Conservationist Ashland, WI	Merrill Clark Organic Livestock Producer Former NOSB Member Cassopolis, MI
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Roger Featherstone Environmental Field Organizer Tucson, AZ	Tom Frantzen Organic Livestock Producer Author/Lecturer Alta Vista, IA
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website currently features an article on its homepage entitled: “Organic Food Not Nutritionally Better, Survey Finds.”

Needless to say, the integrity of the organic standards is at real risk when the NOSB handles rulemaking in a rushed manner and openly and unabashedly prioritizes the concerns of large-scale, industrialized agriculture over those of true and committed organic farmers. The next step in the process will likely be a proposed rule on animal welfare from the National Organic Program. More public input will be possible at that time and Cornucopia will alert farmers and the public to this opportunity. But we regret that the NOSB handed this off to federal bureaucrats before full input from all organic stakeholders was obtained.



Cornucopia Farm and Food Policy Analyst Charlotte Vallaeys testifies on animal welfare at the Washington, DC meeting of the National Organic Standards Board.

Food Safety Legislation Now Focusing on Senate

As if the proposed leafy greens agreement, and other initiatives by the FDA are not enough, Congress is working on their own solutions to our food safety fiasco. With the passage in the House this past summer of a food safety bill, attention has shifted to Senate Bill S510. Cornucopia is urging its members to take action now and contact their Senators to express several concerns (write or visit our website for an analysis and action alert on this issue).

Clearly our nation’s foods safety system is broken. Industrialized and centralized food production and processing gives rise to serious food safety problems, and our government’s ability to regulate corporate agribusiness must be strengthened. But such steps must not harm small-scale and organic family farmers. These farmers –

who operate some of the nation’s safest farms – are part of the solution to food safety concerns, not the problem!

Both the Senate and House bills propose expanded authority for the FDA in regulating food safety matters. Yet neither bill recognizes the source of much of the nation’s bacterial contaminants in food – the improper handling of the mountains of manure found on animal livestock factory farms and the contamination that infects meat in slaughterhouses due to a variety of problematic practices. That these issues are not addressed is unfortunate.

There are several pressing concerns that Cornucopia is urging members to tell their Senators.

1. Regulate farms and food processors based on risk—with organic and local systems as the lowest-risk.

While no farm and processing plant can be completely safe and completely eliminate food safety risks, different production systems carry different levels of risk. Small and medium-sized organic farms are low-risk farms from a food safety point of view, and local food systems are low-risk systems. This fact speaks to a risk-based regulatory approach, particularly given limited federal dollars available for system-wide regulation and the need to prudently target the use of those funds.

Organic farms are already controlling pathogens and improving food safety in various ways that conventional, industrial-scale farms do not. Specifically, food safety regulation for organic and small-scale producers should focus on education and training, not one-size-fits-all food safety standards.

2. Protect organic farmers from conflicting food safety regulations.

Tell your Senator to ensure that the bill directs the FDA to integrate any food safety standards with the existing federal organic standards. No farmer should be forced to choose between organic certification and food safety rules, and the two should be streamlined to avoid unnecessary additional burdens and incompatibilities.

3. Protect wildlife, biodiversity and habitat from misguided food safety regulation.

Likewise, the food safety bill should ensure that FDA food safety standards do not conflict with existing federal conservation, environmental and wildlife standards. Farmers should be encouraged to adopt conservation practices on their farms—in

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fact, many conservation practices such as vegetated buffer zones and wetland preservation have been shown to reduce the presence of foodborne pathogens on farms.

If you don't know your Senators' phone numbers, you can call the capital switchboard at 202-224-3121 — they will connect you directly to your Senator's office. Ask to speak to their aid that is handling food safety or farming issues.

Raw Almond Pasteurization Challenge Moving to Appeal

The court challenge to the USDA's controversial almond pasteurization rule has moved into the appeal stage. Opening briefs are due on December 9. The USDA declined an invitation by the federal Circuit Court mediator to seek a negotiated compromise, notes attorney John Vetne, who is representing almond growers.



Cornucopia has been assisting the farmers challenging the rule. Many consumers don't want raw almonds that have been fumigated with a toxic gas or steam-treated. The rule was put in place

in September 2007 to supposedly address the threat of future salmonella contamination of raw almonds. Ironically, the rule doesn't apply to imports of almonds coming into the U.S. The rule has devastated small-scale and organic family farmers in California who have lost much of their raw almond markets. This is grossly unfair and we are fighting hard to overturn the regulation.

In negotiations with the USDA, Cornucopia initially offered a compromise that was rejected in May, 2008. The compromise proposed a warning label for all untreated raw almonds allowing consumers freedom of choice in the marketplace, and an opt-out of the rule's requirements for organic growers – who have not been connected in any way to salmonella problems.

The court battle is an expensive proposition. The merits of the case against mandated almond pasteurization have yet to be heard in court and Cornucopia has been fundraising on behalf of the almond farmers challenging the rule so that their voices will be heard.

Off Target - Major Retailer Accused of Organic Improprieties

Target Corporation Admits "mistakes"

The Cornucopia Institute filed a formal complaint with the USDA's organic program in October alleging that Target Corporation had misled consumers into thinking some conventional food items it sells are organic.



An investigation into the matter by the National Organic Program has determined that Target had indeed used a photo of an organic carton of Silk soymilk in their advertisement promoting the sale of Silk "natural"

soymilk made with conventional soybeans.

According to the NOP, their investigators contacted Target and the company "explained that it used an outdated photo in its September 2009 advertisement that promoted Silk Soymilk Organic in the previously used blue carton." Furthermore, "Target stated to the NOP that it is currently reviewing its processes to prevent future errors of this nature."

Cornucopia's formal complaint is the latest salvo into a growing controversy whereas corporate agribusiness and major retailers have been accused of blurring the line between "natural" products and food that has been grown, processed and properly certified organic under tight federal standards.

"Major food processors have recognized the meteoric rise of the organic industry, and profit potential, and want to create what is in essence



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'organic light,' taking advantage of the market cachet but not being willing to do the heavy lifting required to earn the valuable USDA organic seal," said Mark Kastel, Cornucopia's Senior Farm Policy Analyst.

Dean Foods, and its WhiteWave division, received media scrutiny, and industry condemnation, this past spring for not notifying retailers or changing the UPC codes, when they quietly switched to conventional soybeans in their core-products.

The majority of their Silk products are now made with conventional soybeans. When Dean purchased Silk in 2002, all of its soy food products were 100% organic.

Dean/WhiteWave has also received heat in the organic food and agriculture community for recently converting some of their Horizon products, the leading organic label in terms of sales volume, to cheaper "natural" (conventional) ingredients. "This really hit a nerve because one of these new Horizon products, *Little Blends* yogurt, is aimed specifically at toddlers, at an early stage of development, where the nutritional superiority of organic food, and its utility in avoiding chemical residues in our food, is so critically important," Kastel added.

"The majority of their Silk products are now made with conventional soybeans. When Dean purchased Silk in 2002, all of its soy food products were 100% organic."

"In an industry where educational achievement and passion are the common denominators in describing its clientele, Target and Dean Foods (Silk and Horizon) could certainly be viewed as arrogant to think they can take advantage of consumers by ignoring both the spirit and letter of the laws governing organic commerce," Kastel affirmed.

SuperTarget stores have gained significant market share around the country and are, according to a recent Nielsen/Shelby report, now the number

two grocer in Minnesota's Twin Cities market.

"We feel very strongly about taking seriously the use of the regulated term: *Organic*," said Lindy Bannister, general manager of The Wedge in Minneapolis, the nation's largest member-owned cooperative store. "Although we welcome all the players that bring organic food to people, we must insist that, for the unregulated (the non-certified retailers), they at the very least should proof their ads as they are subject to a federal fine for misusing that regulated term."

Genetically Modified Crops Increase Herbicide Use



Genetically engineered (GE) corn, soybeans and cotton have increased use of weed-killing herbicides – a type of pesticide – by 383 million pounds in the U.S. from 1996 to 2008, according to a new Organic Center report titled "*Impacts of Genetically Engineered Crops on Pesticide Use in the United States: The First Thirteen Years.*"

The new report was released by The Organic Center, the Union for Concerned Scientists and the Center for Food Safety. In addition, GE corn and cotton have reduced insecticide use by 64 million pounds, resulting in an overall increase of 318 million pounds of pesticides over the first 13 years of commercial use.

Based upon data from the U.S. Department of Agriculture (USDA), report author Dr. Charles Benbrook presents compelling evidence linking the increase in pesticide use on GE, "herbicide-tolerant" crops to the emergence and spread of herbicide-resistant weeds. This report comes at a time when biotech seed prices are drastically rising and increasingly resistant to weeds.

The agricultural biotechnology industry claims that the much higher costs of GE seeds are justified by multiple benefits to farmers, including decreased spending on pesticides. The price of GE seeds has risen precipitously in recent years, and the need to make additional herbicide applications in an effort to keep up with resistant weeds is also increasing cash production costs.

As an example, corn farmers planting "SmartStax" hybrids in 2010 will spend around \$124 per acre for seed, almost three times the cost of conventional corn seed. In addition, new-generation "Roundup Ready" (RR) 2 soybean seed, to be introduced on a widespread basis next year, will cost 42 percent more than the original RR seeds they are displacing.

"The drastic increase in pesticide use with genetically engineered crops is due primarily to the rapid emergence of weeds resistant to glyphosate, the active ingredient in Monsanto's Roundup herbicide," said Dr. Charles Benbrook, chief scientist of The Organic Center.

Court Finds USDA Violated Federal Law by Allowing Genetically Engineered Sugar Beets on the Market

In a case brought by Center for Food Safety and Earthjustice representing a coalition of farmers and consumers, a Federal Court has ruled that the Bush USDA's approval of genetically engineered (GE) "RoundUp Ready" sugar beets was unlawful. The Court ordered the USDA to conduct a rigorous assessment of the environmental and economic impacts of the crop on farmers and the environment.

The federal district court for the Northern District of California ruled that the U. S. Department of Agriculture's Animal and Plant Health Inspection Service ("APHIS") violated the National Environmental Policy Act ("NEPA") when it failed to prepare an Environmental Impact Statement ("EIS") before deregulating sugar beets that have been genetically engineered ("GE") to be resistant to glyphosate herbicide, marketed by Monsanto as Roundup.

"This court decision is a wakeup call for the Obama USDA that they will not be allowed to ignore the biological pollution and economic impacts of gene altered crops," stated Andrew Kimbrell Executive Director of the Center for Food Safety. "The Courts have made it clear that USDA's job is to protect America's farmers and consumers, not the interests of Monsanto."

The full story can be viewed at:

<http://www.cornucopia.org/2009/09/victory-court-finds-usda-violated-federal-law-by-allowing-genetically-engineered-sugar-beets-on-the-market/>

"This court decision is a wakeup call for the Obama USDA that they will not be allowed to ignore the biological pollution and economic impacts of gene altered crops."

Tainted Hamburger Paralyzes Young Dance Instructor

A revealing story in the *New York Times*, "E. Coli Path Shows Flaws in Beef Inspection," chronicles failures in our food safety system occurring at processing facilities. According to the *Times* story a 22-year old dance instructor, Stephanie Smith, was left paralyzed by eating E. coli tainted hamburger.

The frozen hamburgers that the Smith family ate were made by the food giant Cargill and labeled "American Chef's Selection Angus Beef Patties." According to the article, "confidential grinding logs and other Cargill records show that the hamburgers were made from a mix of slaughterhouse trimmings and a mash-like product derived from scraps that were ground together at a plant in Wisconsin. The ingredients came from slaughterhouses in Nebraska, Texas and Uruguay, and from a South Dakota company that processes fatty trimmings and treats them with ammonia to kill bacteria."

Using a combination of sources — a practice followed by most large producers of fresh and packaged hamburger — allowed Cargill to spend about 25 percent less than it would have for cuts of whole meat.

Unwritten agreements between some companies appear to stand in the way of ingredient testing. Many big slaughterhouses will sell only to grinders who agree not to test their shipments for E. coli, according to officials at two large grinding companies. Slaughterhouses fear that one grinder's discovery of E. coli will set off a recall of ingredients they sold to others.

The full story from October 5 can be found at:

<http://www.cornucopia.org/2009/10/e-coli-path-shows-flaws-in-beef-inspection/>

French Research Gives Boost to Organic Food

A recent report by the French Agency for Food Safety (AFSSA) has suggested that organic foods are more nutritious just a month after an allegedly tilted UK report argued there was currently little evidence to indicate that organic food had additional health benefits compared to conventionally produced food.

Shane Heaton, Nutritionist for the Biological Farmers of Australia, said the French research was a thorough and critical evaluation of the nutritional quality of organic food, and has found organic foods have higher levels of minerals and antioxidants as well as a number of other benefits.

"This is what an unbiased review of the available evidence reveals," he claimed. "Contrary to another recently released review commissioned by the UK Food Standards Agency and widely reported in the media as showing organic food has no significant benefits over non-organic food."

Source: *Australian Food News*, <http://www.cornucopia.org/2009/09/french-research-gives-boost-to-organic-food/>

Mark Kastel Named to List of Visionaries Changing Our World

The Utne Reader, in its November issue, has named Cornucopia's Mark Kastel as one of 50 visionaries who are changing our world. The magazine notes that those on the list exhibit "an unwavering, inexhaustible sense of purpose [that] they bring to their work." The listing of visionaries, that includes the Dalai Lama, according to Utne, "is a tribute to that resolve."

Utne has this to say of Cornucopia and our co-founder: "When you buy organic, you want to trust the label. Kastel and his small but dogged Cornucopia crew make sure that organic food producers are walking their talk by snooping around their barnyards and their balance sheets."

"I am humbled to receive this award, especially when you look at the roster of other recipients," says Mark. "I also view this as a recognition for the work that Cornucopia and its staff are doing to protect the integrity of organics and want to thank our many members and supporters for helping us with our mission."



Mark Kastel speaking at the recent Weston A. Price Foundation annual conference. Photo courtesy of @cheeseslave on twitter.com



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