



C O R N U C O P I A
I N S T I T U T E

February 14, 2018

TO: The Office of Inspector General
RE: Request for Investigation of the National Organic Program

Dear Ms. Fong,

The Cornucopia Institute is requesting that you investigate officials at the USDA's National Organic Program (NOP) for willfully misinforming the public about the legality of, and NOP's historic position on, the organic certification of hydroponic operations.

Specifically, on January 25, 2018, the NOP's *Organic Insider* stated:

"Certification of hydroponic, aquaponic, and aeroponic operations is allowed under the USDA organic regulations, and has been since the National Organic Program began."

It is our understanding, from talking to accredited certifiers, that the organic certification of hydroponics was not even considered an option until September 2006, when the NOP sent certifiers a survey on the topic.

FOIA documents obtained by The Cornucopia Institute referring to the recent history of hydroponic certification reveal that even NOP personnel were questioning the ability to certify hydroponic operations.

In 2013, NOP staff member Renee Mann was asked to respond to questions from a certifier and another NOP staff member seeking clarity on whether or not hydroponic operations could be certified organic. Mann stated:

"I don't know... I seem to remember a time when the NOP said that hydroponic operations could not be certified because they could not meet the requirements for 205.203 (a-c) to maintain or improve physical, chemical & biological aspects of soil."

Mann is referencing the federal organic standards that went into effect in 2002.

FOIA documents also expose that, the same year, another accredited organic certifier

contacted the NOP with a relevant complaint. They claimed to be losing business because it was their understanding, from information provided to them previously by USDA regulators, that hydroponic operations were not eligible for certification. This certifier noted that hydroponic operations they had deemed not eligible for certification later shopped around and found a different certifier to declare their hydroponic facilities organic. The certifier called the situation “unfair” and requested additional information.

Furthermore, we want to call your attention to a related, but separate, matter. Since leaving his post as the head of the NOP, where he was responsible for oversight of all accredited certifiers, Miles McEvoy now appears to be employed by (or working under contract with) CCOF, the nation’s largest accredited certifier. McEvoy left his USDA posting in September, 2017. He formerly was responsible in his USDA position for oversight of all accredited certifiers, including CCOF.

It was under McEvoy’s stewardship that the NOP ignored input from the USDA’s National Organic Standards Board that questioned the allowance for certifying hydroponic operations as organic and quietly worked with certifiers, including CCOF, to approve the organic certification of such operations outside of the public eye. Coincidentally, CCOF certifies more hydroponic operations than any other agent in the U.S. This is obviously ethically troubling.

We respectfully request your review of the limits to McEvoy’s ability to legally engage, for compensation, with organizations like CCOF, which he directly oversaw. McEvoy is widely viewed as having ruled favorably on hydroponics and other controversial issues directly benefiting his new employers (Mr. McEvoy recently attended an Accredited Certifiers Association conference registered with CCOF but is reportedly also contracting with one other certifier he previously oversaw).

And lastly, we have one final concern: the current vacancy on the National Organic Standards Board. The official posting in the Federal Register on June 6, 2017 seeking nominations to fill the vacancy stated that the term of the new NOSB member would commence on January 24, 2018.

It is the contention of The Cornucopia Institute that Congress carefully designated certain seats on the NOSB to assure diversity in knowledge for decision-making by the board. Based on this clear Congressional intent, it is our contention that no official business can transpire without a full complement of members. We hope that this deficiency will be resolved before the NOSB’s next official meeting, in Tucson, Arizona, this April, forestalling potential legal action.

Please keep us apprised of your findings.

Sincerely,



Will Fantle