

NEWS, NOTES & QUOTES



National Newsletter of the Mulch & Soil Council

August 2022

COUNCIL NEWS

JULY COMMITTEE MEETING REPORT



On July 26, the MSC held regular quarterly meetings for standing committees with business to conduct. The meetings were held in Annapolis, MD, and were open to any member in good standing that wished to participate. Here is a summary of the committee actions:

Certification Committee:

The committee reviewed the program status noting that 286 products are certified after 9 products were discontinued by manufacturers and 9 products were decertified by the Council. As of July 15, product audits in all 5 regions have been completed. Under the new greenhouse services agreement, we have completed the soils growth tests the earliest they have been done in the last 5 years. The committee reviewed and approved the line-by-line operating budget report. Staff noted some confusion has existed regarding the product ingredient labeling requirements for mulches. Multiple existing requirements are found in many different documents and standards; so, to make it easier for members, a consolidated guideline of all ingredient labeling requirements was assembled into a one-page document. The committee reviewed the guideline but deferred distribution approval pending additional review by company packaging experts.

The committee then reviewed presentations by Certification Program Director Robert LaGasse on future operations planning in preparation for approaching retirements of key personnel at the end of the year. The discussion focused on the variety of detailed tasks that must be performed in key areas including field audits, GH & Lab testing, program administration and program management with plans to transition from present personnel to replacements over the next year.

The committee also reviewed the data on the new greenhouse and laboratory testing program following construction and implementation of new facilities and staffing approved in January. Based on a very detailed time and cost analysis conducted by staff, the committee voted to recommend to the MSC Board of Directors that the product certification license fee be increased from \$750 to \$850 and the greenhouse growth test for soil fees and payments be raised from \$200 to \$260 for calendar year 2023. The MSC certification fees have not changed since they were first set in 2001 — over 21 years ago.

Finally, the committee reviewed and discussed the history regarding state and federal actions for organic soil registration and the market need for a more consumer-friendly organic soil certification program in the lawn & garden market. The committee agreed to request the Board of Directors to approve and MSC President Jim Weber appoint a Certification Committee Subcommittee on Organic Soil Certification. Initial subcommittee volunteers are Jim Weber (Ohio Mulch) ex-officio, Rob Hudiburg (Kellogg), Steve Jarahian

COMMITTEE REPORT (Cont'd)



shutterstock.com - 462473449

(Oldcastle), Greg Cunningham (Scotts), Steve Liffers (Swanson), Tom Carton (Ohio Mulch) and Kay Jeong (Sungro). Anyone interested in volunteering to serve on the Organic Soil Certification Subcommittee should contact Robert LaGasse at execdir@mulchandsoilcouncil.org or 806.832.1810.

The next meeting of the Certification Committee will be held on October 4 in Charlotte, NC, in conjunction with the MSC Annual Meeting. Members in good standing are invited to participate as observers. We only ask that you let us know (meetings@mulchandsoilcouncil.org) in advance in order that we have enough seating available for everyone.

Standards Committee:

The Standards Committee did not meet in Annapolis because it has no active task assignment from the Board of Directors or any requests from members for consideration. The committee's next regular meeting will be October 4 in Charlotte, subject to need.

Industry Statistics Committee:

The committee confirmed its plan to conduct an annual industry sales volume comparison for 2021-2022 and reviewed the draft survey form prepared by staff. The committee then reviewed a staff request to conduct a national consumer survey. MSC Executive Director Bob LaGasse explained that the Council uses data collected from the Garden Writers Assn national consumer surveys done by Technometrica Market Intelligence (TMI) to calculate industry MULCH sales, but the data goes back to market surveys done in the 2012-2015 which is old. Bob's ongoing relationship with TMI has resulted in an offer to do a national consumer survey for a mere fraction of the typical cost. After word-smithing a series of proposed questions to replace the current market data the committee voted to request the Board approval for funding the national consumer survey. The committee also requested staff to prepare sample questions to focus on a follow-up consumer soils use survey if the mulch survey returned useful data as expected. The next meeting of the committee will be on call as needed.

###

JULY BOARD MEETING REPORT



On July 27, the MSC Board of Directors held its regular quarterly meeting in Annapolis, MD. The meeting was open to any member in good standing that wished to participate. Here is a summary of the committee actions:

After approving the minutes of the May 12 Board teleconference, President Jim Weber welcomed everyone to the meeting and gave a brief industry and market overview. Bob LaGasse reported on the staff activities since the last meeting and the Board approved a detailed treasurer's report. Committee reports were next:

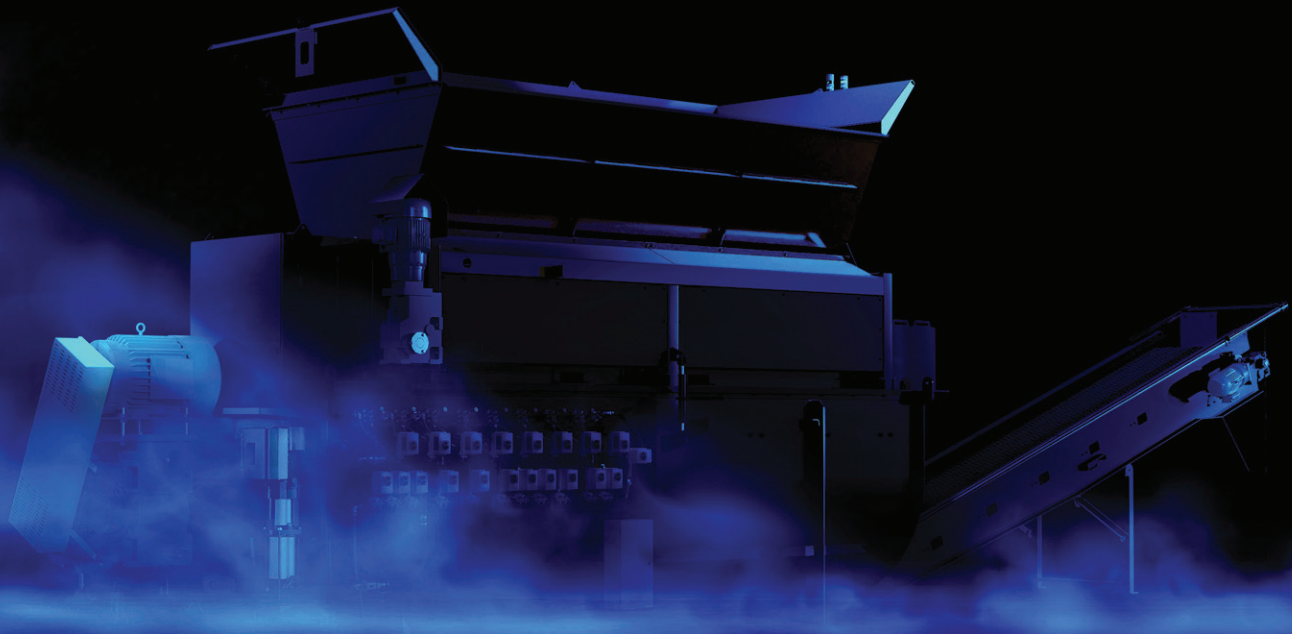
Certification Committee:

Bob LaGasse clarified for the Board that the newly developed Mulch Labeling Guidelines were an assemblage onto one sheet for EXISTING mulch labeling rules that are scattered across multiple documents that makes it presently difficult for members to follow. There is nothing new in the content, just form and format. The Board approved the guideline and its distribution to the membership. The Board also approved the committee's request to increase the certification license fee to \$850 and the greenhouse test fee and payment to \$260/test. To assist the transition of the certification administration to new personnel in 2023, the Board authorized a nominal continuing consulting agreement for the next year. And finally, the Board created and President Jim Weber (Ohio Mulch) appointed members to the Certification Subcommittee on Organic Soils Certification.

Standards Committee: Committee Chair Kimberly Rygielski (Scotts) reported there was no task assignment for the committee; so, no report was due.



Mulch, meet your maker.



Sahara[®] XP See the all-new coloring system from Colorbiotics at SaharaXP.com.

Colorbiotics is a registered trademark of MBCC Group. © 2022 MBCC Group. All Rights Reserved.

A brand of
MBCC GROUP



Honors Committee:

Committee Chair Byron Morgan (Mountain West) reported on the nominees received for the John Leber Distinguished Service Award and the Board approved.

Nominations Committee:

Committee Chair Steve Liffers reported that the current directors whose seats expire in 2022 have agreed to run for reelection. The committee reelection slate will be: Joe Ertel (Oldcastle Lawn & Garden), Dr. Kay Yeon Jeong (Sungro Horticulture), Rick Mahoney (Garick Corp.), and Kimberly Rygielski (The Scotts Company). A notice will appear in the August NNQ with a final call for nominations.

Transportation Committee:

Committee Chair Jim Weber reviewed the article Bob LaGasse wrote and was published on the Soil & Mulch Producers News on the FMCSA change to entry level driver training requirements. That completes the committee's charge from the Board until a new assignment is made.

Industry Statistics Committee:

Committee Chair Kent Rotert (Colorbiotics) gave a brief recap of the committee's actions and request and the Board approved the member and national consumer surveys.

Legislative & Regulatory Issues:

H-2B Non-Immigrant Work VISAs: Bob LaGasse did a brief recap of the recent teleconference on H-2B Visa and thanked everyone who participated. After a discussion of pros, cons and different experiences, it was the consensus of the Board that the process is too complex for MSC to handle itself and we have no knowledge how many members may want to get involved in the program; so, the Council should arrange a video conference to inform interested members on the process and see what develops.

Legislative Monitoring Program: Bob LaGasse reported on the progress made in revising the Council's state & Federal legislative monitoring program. A demo of active windows on the MSC website showing mulch legislation and regulations and soil legislation and regulations are now available. Sortable stakeholder reports will also be sent to members along with periodic updates on bill progress. Members who want to be actively engaged on the monitoring process in any state can also participate through the MSC office. A full program presentation is being developed for formal launch at the October Annual Meeting in Charlotte.

Meetings:

The board received and approved reports on the progress of the Plant Managers Training Course on Weights & Measures in Las Vegas in August and the status of programs, sponsorships and exhibits for the annual meeting in Charlotte in October. The 2023 annual meeting will be held in Savannah, GA, and multiple city locations were suggested for 2024 and beyond. The meeting was then adjourned.

The next Board of Directors meeting will be held on October 5 in Charlotte. Members in good standing are invited to participate as observers. We only ask that you let us know (meetings@mulchandsoilcouncil.org) in advance in order that we have enough seating available for everyone.

###

All certified mulch products are required to have an ingredient statement *if the product name does not identify all the product inputs*. The labeling and nomenclature guidelines are in Parts III and IV of the Uniform Voluntary Product Guidelines that are available on our website at:

https://www.mulchandsoilcouncil.org/pdf/Standards/2020_Revised_UVPG.pdf

For example, products whose name is a *full description of the product species and all inputs into the bag*,

**ATTENTION
ALL CERTIFIED
MULCH
PRODUCERS!**

CERTIFIED PRODUCT

	Premium Potting Soil
	Standard Potting Soil
	Landscape Soil & Soil Amendment
	Specialty Soils
	<input checked="" type="checkbox"/> Mulch

This product has been registered and tested for conformance to the standards of the Mulch & Soil Council for the indicated product category. The Mulch & Soil standards do not contain a product category for pesticides, and this certification mark does not apply to pesticide claims. For more information, refer to the MSC Web site at www.mulchandsoilcouncil.org.

MULCH INGREDIENT STATEMENT GUIDELINES (Cont'd)

do not need an ingredient statement, such as products that are labeled and contain only hardwood mulch, cedar mulch, pine mulch, pine nuggets, etc.

Any *added inputs* would require an ingredient statement. For example, a colorized hardwood mulch would say, "Contains Hardwood Mulch and Colorant."

Ingredient/Content statements should list package contents in descending order by volume.

A generic product, such as "Gold Mulch" or "Shredded Mulch", needs an ingredient statement to inform the buyer what is in the package, like: "Contains Natural Forest Products and Colorant". *If either virgin or reprocessed wood may be used* based on market conditions, the ingredient statement shall say (for example): "Natural Forest Products *and/or Reprocessed Wood* and Colorant." (SUIP #3 – 2018)

It is perfectly fine to use recycled wood in products; however, *ANY product containing reprocessed/recycled post consumer or industrial wood products must have an ingredient statement indicating the product is made from, or contains, reprocessed wood* such as a colorized brown mulch made from recycled pallets would say: "Contains Reprocessed Wood and Colorant".

Blended products are mixed species wood products and should contain the first-named species as the majority of the product contents and identify what other contents are added (in descending order by volume), including colorants, for example: a colorized Cedar Mulch Blend would have a statement: "Contains Cedar, Natural Forest Products and Colorant" or "Contains Cedar, Reprocessed Wood and Colorant". *The word "Blend"* must be the same type size as the product name it modifies

If the product is a blend of named wood products like *Hardwood & Cypress Blend* (with no additional inputs), it would not need an ingredient statement because the name identifies ALL the inputs. In this case, hardwood should be the majority and cypress the minority of the product in the bag. Adding colorant would then require an ingredient statement with all 3 inputs identified in the descending order of their volume in the product.

The objective of certification labeling is to inform the consumer on what is in the package as specifically as possible on all inputs (i.e., pine, cedar, cypress) but at least generically (natural forest products, reprocessed wood) when specifics don't or can't apply.

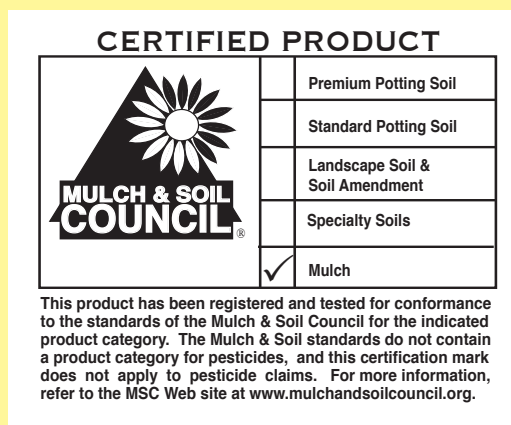
The ingredient statement should appear on the primary display panel, but may appear anywhere on the package, and it must be easily read and conspicuous in size, color and contrast with the rest of the label.

There can be a lot of variations of mulch products that might impact an ingredient label; so, if producers have any questions, please feel free to give the Council a call at any time.

Since many members ask, MSC can assist with new or other product label reviews at any time. We recommend that members send a PDF of the design before it is finalized.

NOTICE:

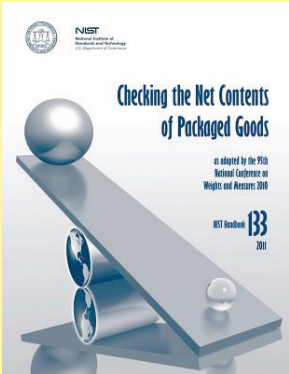
MSC Certification Program approval of products and labels are for certification program requirements only and do not represent, convey or attest to compliance with any Federal, state or local laws, regulations or other requirements.



To download a PDF version of this guideline: [CLICK HERE](#)

PLANT MANAGERS TRAINING COURSE ON W&M

August 24 was the date of the very successful *Plant Managers Training Course on Weights & Measures* conducted by the MSC at the LINQ Hotel in Las Vegas. More than 30 participants gathered for this first, in-person training program since the last face-to-face event in 2018. The program was made possible by the first ever course sponsors that included:



DIAMOND SPONSORS:



PLATINUM SPONSOR:



GOLD SPONSOR:



Special thanks go to our great group of instructors including:

- Dr. Bill Fonteno Prof. Emeritus / NCSU Corpus Christi, TX
- Darren Talbert The Scotts Company Lawrenceville, VA
- Jeff Conrad Hamer-Fischbein Div. / nVenia Plymouth, MN
- John Mortensen Hamer-Fischbein Div. / nVenia Plymouth, MN
- Shelli Williams MSC Assoc. ED Shallowater, TX
- Bob LaGasse ED / MSC Shallowater, TX



Darren Talbert of The Scotts Company instructs participants on calibrating bulk loads of mulch.



Dr. Bill Fonteno zoomed-in from Corpus Christi, TX, to lecture on target fill, product variability and Best Management Practices.



Bob LaGasse presents NIST regulations on checking net contents of packages and product labeling.



John Mortensen and Jeff Conrad of Hamer-Fischbein/nVenia discuss equipment effects on volume fill of packages.



**DO MORE
WITH LESS**

**Do you want to color
more mulch using less colorant?**

Amerimulch's 150 Line is for you!

Our 150 Line utilizes new technology which means:

- High performance colorants which reduce application rates up to 50%
- More yield of colored mulch per tote or drum of colorant
- Improved manufacturing efficiency from handling fewer totes or drums
- Positive environmental impact by reducing disposable packaging

***Does this new product line sound
like an exceptional value to you?***

**Contact your Amerimulch sales representative
to discuss how our new 150 Line can work for you!**



Explore our products at
chromascape.com

CHR·MASCAPE

service@chromascape.com • 888.421.0010



**Join us in North
Carolina's largest city
for MSC's 51st
Annual Meeting!**

**Covering topics for everyone from
owners and plant managers to
account and marketing managers to
industry suppliers.**

This year's meeting topics will include:

- Insight Into Upcoming Mid-term Elections
- Fire Safety: Solving Today's Double Threat
- New Ways for Recruitment & Retention
- Taking Charge of Your Business Insurance Program & Costs
- Women in the Mulch & Soil Industry

Keynote Speaker: Dr. Brian Jackson

*Current Challenges & Opportunities in the
Growing Media Industry*

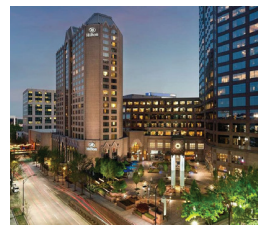
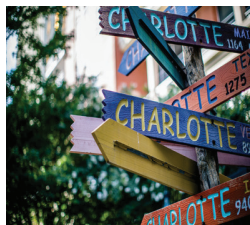
We hope to see you there!

**Mulch & Soil Council
2022 Annual Meeting**

October 4 - 6, 2022

**Hilton Charlotte Uptown
Charlotte, NC**

**For more info, go to
www.mulchandsoilcouncil.org**



2022 MSC Annual Meeting

October 4-6, 2022

Hilton Charlotte Uptown - Charlotte, NC

Tuesday, October 4

1:30p-5:00pm MSC Committee Meetings

Members in good standing are welcomed to participate in all committee meetings as observers.

5:00p-6:30p Meet the MSC Board of Directors

Join the MSC Board of Directors for informal talks over cocktails as they share information on the programs and activities of the Council and the industry. *Sponsored By nVenia*

Wednesday, October 5

8:00a-12:00p Board of Directors Meeting

Members in good standing are welcomed to participate in the Board of Directors meeting as observers.

1:00p-1:30p Official Opening and Welcome

Hear from MSC President Jim Weber, Program Chair Joe Ertel, Legal Counsel John Hazard and Executive Director Robert LaGasse as we invite you to join us for the start of the 51st MSC Annual Meeting.

1:30p-2:30p Crow Political Report

With only a month before the critically important mid-term elections, join us as MSC Legislative Representative **DAVID CROW** presents our annual update on the state of politics and his state and national election predictions.

2:30p-3:00p Break *Sponsored By Komptech Americas*

3:00p-4:30p 51st MSC Annual Membership Meeting

Hear reports from MSC leadership and committees, elect Council directors and discuss MSC programs and activities as they may impact your business and the industry. **Moderator: Robert LaGasse, MSC Executive Director**

4:30p - 7:00p Opening Reception & Affiliate Member Displays

Join us to meet with old friends and new members over cocktails and hors d'oeuvres while visiting with the industry's leading suppliers and vendors. *Sponsored By Vermeer Corporation*

Thursday, October 6

8:30a-9:00a Break *Sponsored By Chromascope*

9:00a-10:00a Women In Our Industry

Hear from a panel of women from MSC member companies on topics like recruitment, hiring and retention of a relatively untapped pool of candidates in our industry. In today's tight labor market, reaching a new demographic can help lead to more applicants for your open positions. **Moderator: Joe Ertel, Annual Meeting Program Chair**

10:00a-10:30a Break *Sponsored by Loadscan*

10:30a-11:30a New Ways to Recruit & Retain the Next Generations

Finding and keeping good employees is certainly top of mind. Low unemployment and record-high quit rates makes this labor market unlike any we have seen. With employers struggling to add to their workforce, there is temptation to focus solely on hiring and let retention efforts slip. It is time to revamp the approach! Paula will introduce new methods for recruiting to gain the attention of the Millennial and Gen Y generations, share innovative ideas for hiring and inspire you to think differently on strategies to retain good employees. **Speaker: Paula Dunn, MBCC Group**

11:30p-2:00p Keynote Luncheon - Current Challenges and Opportunities in the Growing Media Industry

The growing media industry, both retail and professional, is facing unprecedented demand, growth, popularity, and significance both domestically

and globally. As the global demand for soilless substrates is projected to increase over 400% in the coming decades, coupled with transportation and supply chain uncertainties, future peat supply instability, sustainability concerns, and new growing markets for substrates, we find ourselves facing many unique challenges and opportunities, many of which will be highlighted in this presentation. **Speaker: Dr. Brian Jackson, Professor & Director, Horticultural Substrates Lab at NCSU**

2:00p-3:00p Taking Charge of your Business Insurance

Program & Costs

This session is all about looking at your facility from an underwriters standpoint and making it more insurable (basically tips from an underwriter): Making the underwriter comfortable so you will receive more credits thus a lower rate. **Speaker: Kevin Mershimer, The Horton Group**

3:00p-3:30p Break *Sponsored By ProAmpac*

3:30p-4:30p Fire Safety: Solving Today's Double Threat

Losing buildings or equipment is bad enough, but not having replacements due to supply chain issues can make fire a double loss for production time and equipment. Combining proven tech with new protection systems can save valuable assets and minimize downtime. **Speaker: Rick Saar, AKE Safety Equipment**

4:30p-6:00p President's Reception

Join us for our closing event as the President's Reception gives participants the opportunity to recap the bounty of information presented at the meeting and say goodbye to old and new friends before returning home reenergized. *Sponsored By Social Marks Media*

THANK YOU To Our 2022 Annual Meeting Sponsors

Diamond



Platinum



Gold



Silver



Everyone is Welcomed to Participate!

Sharing experiences and learning from others who have gone through the same trials is one of the major reasons for industry meetings. There is no better proof of the value of getting together as an industry than last year's RECORD BREAKING attendance in Memphis. Building on that experience, we plan to set another record in Charlotte for 2022.

This year is all about dealing with the effects of the pandemic like labor, drivers, trucking, equipment and supply chain shortages and also rising costs, rampant inflation and changing consumer lifestyles.

From owners to plant managers or marketing and sales executives to industry suppliers, the MSC invites all interested parties to Charlotte for the 51st MSC Annual Meeting. Come in person to network with industry people and to hear what the Council is doing for your benefit.

General Meeting Guidelines:

Non-Members: Participation from non-member companies is welcomed. Non-member participants may attend one association meeting as a first-time registrant and are entitled to the member registration rate. Participation at a second meeting as a non-member is permitted at non-member registration rates. Attendance at additional meetings is by special invitation only. Non-members of MSC may join the Council at any time prior to the Annual Meeting and receive an immediate discount on the registration fee. For information on becoming a member, contact the MSC office at (806) 832-1810.

Meeting Registration: Registration fees include participation at education sessions, handouts, coffee breaks, receptions and the Keynote lunch. Travel to the meeting and hotel accommodations are NOT included in the registration.

Cancellations & Refunds: Cancellations at any time due to changes in North Carolina or your home state Covid-19 travel regulations will receive full refunds. Other cancellations must be received in writing at the MSC office by September 20, 2022, and will be subject to a cancellation fee of 25%, which will be deducted from the refund. No refund will be made for non-Covid-19 cancellations received after September 20, 2022.

Limits of Liability: The planners, sponsors and host hotel owners, management and staff of the MSC Annual Meeting and its associated events claim no liability for the acts of any supplier to this meeting, nor for the safety of any attendee while in transit to, in residence at or in transit from this event. Attendees who purchase non-refundable airline tickets do so at their own risk. In the event of meeting cancellation, the total amount of liability of the planners and sponsors will be limited to a refund of the registration fee. Submission of the registration form acknowledges acceptance of these provisions

Hotel Information:

The **Hilton Charlotte Uptown** is directly adjacent to the Charlotte Convention Center. There is so much to see within easy walking distance, from the NASCAR Hall of Fame, to BB&T Ballpark, and Spectrum Center, all less than a mile from here—to say nothing of the large variety of shops and restaurants.

Hilton Charlotte Uptown Reservations:

A special block of rooms has been set-aside for MSC meeting participants. The preferred guest rate for MSC members is: \$209 (+tax)/night. The deadline for discounted room rates and space availability is when the block is filled or SEPTEMBER 12, 2022 - WHICHEVER COMES FIRST.

TO MAKE A ROOM RESERVATION FOR THE MEETING:

<https://www.hilton.com/en/attend-my-event/mscannualmeeting2022/>

**If this link does not load when clicked, copy and paste it into your browser.*

TO DOWNLOAD A FORM TO REGISTER FOR THE MEETING: [CLICK HERE FOR FORM](#)

FINAL CALL FOR ELECTIONS

NOMINATION



The MSC Board of Directors consists of 12 member company representatives elected by the membership. Directors serve for 3 years with 4 director seats expiring in rotation each year. Directors serve without compensation or reimbursement for a minimum of 4 meetings a year. The MSC Nominating Committee has proposed to re-elect the 2019-2022 outgoing directors to another 3-year term of office (2022-2025). The directors have all agreed to serve an additional term and the election slate includes:

- Joe Ertel (Oldcastle Lawn & Garden),
- Dr. Kay Yeon Jeong (Sungro Horticulture),
- Rick Mahoney (Garick Corp.), and
- Kimberly Rygielski (The Scotts Company).

Any official representative of a member company in good standing is eligible to be nominated or volunteer for elective office and /or serve on an MSC committee. Contact MSC Executive Director Bob LaGasse for details at 806.832.1810 or execdir@mulchand-soilcouncil.org.

LEGISLATIVE & REGULATORY NEWS

APHIS: EAB IN OREGON



On July 11, APHIS confirmed the identification of emerald ash borer in Washington County, Oregon. The Oregon Department of Agriculture believes that the infestation has been in Washington County at least 3-5 years. Regulatory efforts to stop the spread of emerald ash borer were not effective and it has spread through much of the United States. Emerald ash borer is now in 36 States and the District of Columbia.

APHIS' goal is to maintain ash in the North American landscape. We will continue to work with our state partners to provide biological control options and integrated pest management methods, as well as ongoing public outreach support, to mitigate impacts from this pest. The biocontrol effort involves releasing tiny, stingless wasps into known infested areas. The wasp larvae feed on early life stages of the emerald ash borer, killing the beetle. Recent research shows that biocontrol is helping reduce emerald ash borer populations and can help the survival of young ash trees as forests recover from outbreaks. We look forward to continued collaboration with all our partners on the effort to combat emerald ash borer infestations.

APHIS encourages the public to be on the lookout and report emerald ash borer, and has outreach materials including videos, photos, factsheets, and online reporting available at: www.aphis.usda.gov/plant-health/eab. You can also sign up to receive the emerald ash borer program report through our Stakeholder Registry, by visiting: https://www.aphis.usda.gov/plant_health/downloads/eab-report-sign-up.pdf.

INDUSTRY NEWS

CFS APPEALS USDA ORGANIC CERTIFICATION OF HYDROPONICS

According to reports from the websites LAW360 and AgriPulse, the question of whether hydroponic production can be certified as organic now rests with a panel of federal appeals court judges, who seemed to be inclined to affirm [a lower court decision allowing such certification](#).

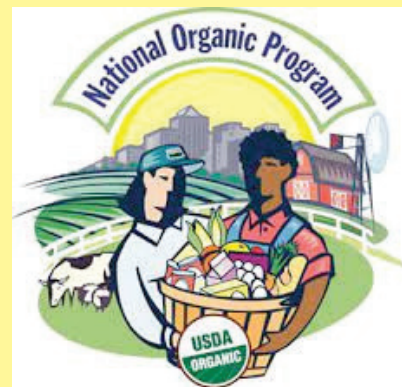
Since 2020, the Center for Food Safety (CFS) and a coalition of organic farming operations have been challenging the USDA/NOP's decision to allow products from hydroponic



***NOTE:** MSC joined with the [Coalition for Sustainable Organics \(CSO\)](#) and other supporters of the greenhouse growing industry to file an Amicus Curiae in support of USDA in this case.*

ORGANIC (Cont'd)

operations to attain organic certification. Plaintiffs' claim their cause for action is that soil fertility is an integral, and required, element of organic farming, and not requiring it for hydroponic operations gives them an advantage over organic growers who must meet a raft of requirements to be certified. However, past statements by the plaintiff organizations emphasized more of the economic advantages hydroponics have in yield/acre than the "organic soil" claim currently offered in court. Last year, a federal district court judge backed USDA.



During a July 27 hearing in San Francisco, U.S. Circuit Court Judge Susan Graber told Sylvia Wu, counsel representing CFS, repeatedly that the Organic Foods Production Act doesn't appear to specify that food must be grown in soil — it just lays out various requirements if the food is grown in soil.

"There is kind of a catch-all [in the statute] that if it's not prohibited it's ok, so where [on the statute] is production in water, or in other media other than soil, prohibited?" Judge Graber asked. "Where is there a restriction? Where has Congress said, 'You can't do this.' Or, 'You only can do this if you do something special in the water'?"

Wu conceded that the statute doesn't explicitly prohibit water-grown food from organic labeling, but she pointed out that the statute mandates certain soil fertility and production requirements, so she argued that "soil building was understood to be synonymous with organic farming."

To that, Garber replied, "It looks to me like they're just setting out alternatives. It doesn't seem to say that these are the only options."

During the hearing, Judge Garber pointed out that the USDA didn't issue a rule that is currently being challenged. Instead, the agency refused a request to issue a rule, and so she questioned whether such a refusal would even be subject to the notice and comment requirement under the Administrative Procedure Act.

Judge Garber also questioned whether hydroponic food operations constitute a "farm" under the statute. USDA Counsel Daniel Winik noted that the OFPA does not define "farm," but "does provide a very good indication of what is meant by the word "farm" standing alone, which is that when it defines a certified organic farm as a term of art, it defines it to mean "a farm, or portion of a farm, or site where agricultural products or livestock are produced."

His conclusion: "If you were thinking about in which of those buckets a hydroponic operation fits, it's obviously far more natural to consider it a site where agricultural products are produced than to consider it a farm." Therefore, Winik argued that the trial court's decision (in favor of USDA) should be affirmed and the agency's decision deserves deference, particularly since it is a policy issue that has been "hotly contested" for many years.

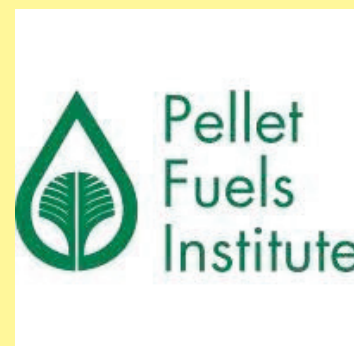
The case is *Center for Food Safety et al. v. Thomas Vilsack et al.*, case number [21-15883](#), in the [U.S. Court of Appeals for the Ninth Circuit](#).

###

HOME PELLET SUPPLY WARNING

An estimated 0.8% of U.S. households have a wood stove as a primary or secondary heating source, but wood pellet manufacturers are urging the homeowners to secure their pellet fuel early this year as the global pellet market works to fill a significant supply hole created by the Russian invasion of Ukraine.

Russia contributed at least 2 million tons of wood pellets to global pellet markets, mostly to European buyers. According to the Pellet Fuels Institute (PFI), the demand



**PELLET WARNING
(Cont'd)**

to fill these missing tons is being felt throughout the world, including here in the United States. In preparation for the coming heating season, wood pellet producers are urging consumers to stock up now.

PFI notes that heating oil and propane prices are currently very high which historically leads to the increased use of the wood pellets with consumers who have both oil and pellet appliances in their homes. According to data captured by the U.S. Energy Information Administration, annual pellet sales have fluctuated between 1.7 million and 2.2 million tons within the last five years.

While pellet inventories in the United States are strong right now, pellet producers highlight the importance of keeping inventory moving through the system in the run up to the heating season. Strong late summer sales allow producers to run at full throttle and build inventory before usage begins to outpace production in the depths of winter.

PFI states that wood pellets are used as primary or secondary space heat in over 1 million homes, creating annual demand for nearly 2 million tons of premium heating pellets. Wood pellets are made from the waste streams generated by the manufacturers of primary and secondary forest products like dimensional lumber, hardwood flooring, wood pallets and cabinetry.



- High quality printing with UV resistant inks
- Specially designed film for high speed filling machines
- Sustainable packaging options available

Learn all about our
Lawn & Garden packaging line
at ProAmpac.com



**THINK
OUTSIDE
THE BOX WITH**

MARKETS WE SERVE	WHAT WE OFFER
Mulch Soil Stone Garden Mix Fertilizer Minerals Perlite and more!	Plain & Printed Bags Film & Rolls Personal Customer Service Care In-House Graphics Department Extrusion - Printing - Converting Warehouse Availability

TRY OUR SPECIALTY PRODUCTS
 ConservaCube™ - Security Bags - Mailer Film

PRIMARYPACKAGING.COM

In September, members will receive a survey comparing 2021 and 2022 high season sales totals. The more members that respond, the better the survey results we can report. Help us provide you with information you can use to plan your 2023 season.

MEMBER NEWS

DURAVANT APPOINTS NEW COO – EMERGING MARKETS

Duravant has announced the appointment of Petros Diamantides to the position of Chief Operating Officer – Emerging Markets for Duravant. Serving customers worldwide, Duravant (which includes nVenia and its Hamer-Fischbein, Ohlson and Arpac packaging divisions) has facilities throughout North and South America, Europe and Asia and distribution partners across six continents. In this new role, Diamantides will be responsible for driving geographic expansion for Duravant products and services across the company’s food processing, packaging and material handling sectors by delivering world-class brands, solutions and infrastructure to support its global customers.



“Our initial focus will be on supporting our customers and partners through investments in a sales and service infrastructure. Establishing local operations is key to being able to realize the full potential of certain markets and products.” said Mike Kachmer, President and CEO of Duravant. “With over 30 years of experience supporting a variety of multi-national consumer, commercial and industrial goods manufacturers, Diamantides is well-qualified to lead this global expansion for the Duravant family.”

Prior to joining Duravant, Diamantides was the President and CEO for Metalbrio Solutions SA, a manufacturer of plug-in commercial refrigeration equipment, based in Sao Paulo, Brazil. Diamantides’ distinguished career of diverse global leadership also includes roles as the Managing Director / CEO of Frigoglass SAIC based in Athens, Greece, and General Manager of Panos Englezos & Company, based in Cyprus. Earlier in his career, Diamantides served as a Senior Financial Analyst at Procter & Gamble Health and Beauty Care based in the United Kingdom.

About Duravant

Headquartered in Downers Grove, IL, Duravant is a global engineered equipment company with manufacturing, sales and service facilities throughout North America, Europe and Asia. Through their portfolio of operating companies, Duravant delivers trusted end-to-end process solutions for customers and partners through engineering and integration expertise, project management and operational excellence. With worldwide sales distribution and service networks, they provide immediate and lifetime aftermarket support to all the markets they serve in the food processing, packaging and material handling sectors. Duravant’s market-leading brands are synonymous with innovation, durability and reliability. For more information, visit www.duravant.com.

###

New Member Welcome

The Mulch & Soil Council is pleased to welcome our newest member companies:

PRODUCER MEMBERS

Heritage Mulch Company
Leigh Caruthers
155 Collins Road
Norlina, NC 27563
leigh@heritagemulch.com

H&H General Excavating Co.
Mike Hershey
660 Old Hanover Rd
Spring Grove, PA 17362
mhershey@h-hgenexc.com
www.h-hgenexc.com

Indianhead
Zachary Villaverde
2020 CR 214
St. Augustine, FL 32084
zvillaverde@islanddoctors.com
indianheadsoil.com

AFFILIATE MEMBERS:

Green Solutions LLC dba
Greener Solutions Int.
John Wynne
PO Box 1373
Hebron, CT 06248
johnwynne@gsigreen.com
www.gsigreen.com

Inteplast Engineered Films
Justin Schaefer
9 Peach Tree Hill Rd
Livingston, NJ 07039
jschaefer@inteplastef.com
www.inteplastef.com

Spaleck USA
Keith Corvin
3020 Attsburgh Rd
Perryopus, PA 15473
k.corvin@spaleck-us.com
www.spaleck-us.com

New Certified Products

H&H General Excavating Co.
H&H General Excavating Co.
H&H General Excavating Co.

Mulch
Vigoro Premium Wood Mulch Black
Vigoro Premium Wood Mulch Brown
Vigoro Premium Wood Mulch Red

Recertified Products

Amerigrow Recycling
Amerigrow Recycling
Austin Wood Recycling, Ltd.
Capital Forest Products
Capital Forest Products
Capital Forest Products
Florida Mulch Inc.
Garick Corporation
Garick Corporation
Garick Corporation
Garick Corporation
Garick Corporation
Garick Corporation
Grant County Mulch
Grant County Mulch
Grant County Mulch
Great Gardens Soil
Great Gardens Soil
Homer Industries, LLC
Hyponex Corporation
Hyponex Corporation
Hyponex Corporation
Hyponex Corporation
Hyponex Corporation
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Oldcastle Lawn & Garden
Superior Cedar Products
Swiss Farms Products
Swiss Farms Products
The Scotts Company
The Scotts Company
Whittlesey Landscape Supplies
Whittlesey Landscape Supplies

Mulch
Eco-Melaleuca Mulch
Premium Black Mulch
Texas Native Royal Black Colored Mulch
Vigoro Premium Black Mulch by Capital Forest Products
Vigoro Premium Brown Mulch by Capital Forest Products
Vigoro Premium Red Mulch by Capital Forest Products
Brown Color Enhanced Mulch
Black Landscape Mulch
Fancy Hardwood Mulch
Nature’s Helper Black Satin Mulch
Pine Bark Landscape Mini-Nuggets
Pine Bark Landscape Mulch
Pine Bark Landscape Nuggets
Red Landscape Mulch
Vigoro Premium Black Mulch by Grant County Mulch
Vigoro Premium Brown Mulch by Grant County Mulch
Vigoro Premium Red Mulch by Grant County Mulch
Hampton Estates 100% Organic Mulch
Hampton Estates Antique Black Mulch
ColorScape Red Mulch
Florida Select Brown Eucalyptus Mulch
Florida Select Red Eucalyptus Mulch
HYPONEX by Scotts Black Mulch
HYPONEX by Scotts Brown Mulch
HYPONEX by Scotts Red Mulch
Chief Select Mahaska Mulch Premium Hardwood Bark Mulch
Mahaska Mulch Premium Red Cedar Blend
Mahaska Mulch Radiant Red Mulch
Professional Mulch Cypress Blend
Timberline Cedar Blend Mulch
Timberline Eucalyptus Mulch
Timberline Gold Mulch
Timberline Hemlock Blend Mulch
Timberline Pine Bark Mulch
Timberline Pine Bark Nuggets
Timberline Shredded Hardwood Bark Mulch
Vigoro Premium Black Mulch by Oldcastle Lawn & Garden
Vigoro Premium Brown Mulch by Oldcastle Lawn & Garden
Vigoro Premium Red Mulch by Oldcastle Lawn & Garden
Premium Cedar Mulch aka 100% Virgin Cedar
Black Mulch
Brown Mulch
Earthgro All-Natural Bark Nuggets
Earthgro All-Natural Mulch
Texas Cut Hardwood Mulch
Whittlesey Enriched Hardwood Mulch

Landscape Soils

Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products
Miracle-Gro Lawn Products

Miracle-Gro African Violet Potting Mix 0.21-0.11-0.16
Miracle-Gro Cactus, Palm & Citrus Potting Mix 0.06-0.02-0.04
Miracle-Gro Cactus, Palm & Citrus Soil 0.13-0.03-0.07
Miracle-Gro Indoor Potting Mix 0.25-0.13-0.19
Miracle-Gro Organic Choice Potting Mix 0.10-0.05-0.05
Miracle-Gro Organic Choice Raised Bed/In-Ground Soil w/Compost 0.09-0.06-0.07
Miracle-Gro Raised Bed Soil 0.09-0.08-0.09
Nature’s Care Organic Potting Mix 0.06-0.04-0.06

Certified Product News

Recertified Products

Miracle-Gro Lawn Products
 Miracle-Gro Lawn Products
 Oldcastle Lawn & Garden
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 Sun Gro Horticulture
 The Scotts Company
 Whittlesey Landscape Supplies
 Whittlesey Landscape Supplies

Nature's Care Organic Raised Bed Mix 0.06-0.04-0.06
 Nature's Care Organic Raised Bed Soil 0.12-0.06-0.09
 Jolly Gardener Premium Potting Mix
 Black Gold All Purpose Potting Mix
 Black Gold Moisture Supreme Container Mix
 Black Gold Natural & Organic Cocoblend Potting Mix
 Black Gold Natural & Organic Potting Mix Plus Fertilizer (0.09-0.03-0.03)
 Black Gold Waterhold Cocoblend Potting Soil
 Sunshine Natural & Organic Planting Mix
 Sunshine Professional Growing Mix
 Sunshine All Purpose Potting Mix
 Scotts Premium Potting Soil 0.07-0.01-0.03
 Potting Soil
 Rose Mix

Premium Soils

Miracle-Gro Lawn Products
 Terrace Brands

Nature's Care Organic & Natural Potting Mix w/Water Conserve 0.15-0.13-0.15
 Bonnie Harvest Select Raised Bed Soil 0.12-0.06-0.09

Specialty Growing Media

Miracle-Gro Lawn Products
 Sun Gro Horticulture

Miracle-Gro Seed Starting Potting Mix 0.03-0.03-0.03
 Black Gold Natural & Organic Seedling Mix

Standard Growing Media

Terrace Brands

Country Soil Organic Potting Mix 0.06-0.04-0.05

AUDIT TEAM TRAVELS CENTRAL REGION

In mid June, MSC's certified products audit team of Carol Ledbetter and JC McGowan headed for the Central U.S. to collect over 45 product samples from retail outlets or ready-to-ship pallets at manufacturing plants. The process took 5 days and covered over 1,575 miles.

The Council extends its thanks to all the retailers and member company representatives who help the team gather samples and ship test materials around the country.



