

The Mouse That Roared

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What is it about the National Organic Program that has Dan Glickman so up-tight?

The week that the U.S. Department of Agriculture (USDA) released the proposed national rules to govern organic food production and labeling, the USDA Secretary was dancing all around the subject of defining quality food. For the past half a year, he and the Clinton Administration have been rather busy putting out “Initiatives to Nuke Chicken and Save Us From E-Coli,” and proposals to “Teach Them Folks Down Below the Rio Grande a Thing or Two About Hygiene.”

The Agriculture Secretary wanted to sit on a fence when he said that having federal standards for organic food production shouldn't imply that there is anything wrong with conventionally raised food. It's just about giving consumers a choice. He kind of ripped his pants getting off that fence though, since the standards proposed by USDA on organics are a real embarrassment.

The short of it is that the proposed rule released on December 15, 1997 is the means to implement the *Organic Foods Production Act*, a piece of legislation passed in 1990. It sounds like it was eight years ago, but it is really only seven. And pay you no mind that in the Act itself the Secretary of Agriculture was to have the program up and running by October 1, 1993.

Since USDA took so long in getting this program into shape, one would expect that the result would be impressive. Unfortunately, we have not only been hauled all the way back to a circumstance reminiscent of 1989, when various definitions ascribed to organically produced products caused some but not great concern, but we have also had irradiation, transgenic modification, and the burdensome criteria of an agency not even under USDA, the U.S. Environmental Protection Agency (EPA), thrown onto the wagon as it left the gate.

Prudence might indicate that the foot soldiers on the USDA staff are not wholly responsible for the debacle made of the National Organic Program. The Office of Management and Budget, the FDA, Health and Human Services and other denizens of the D.C. labyrinth have left their fingerprints at the crime scene, in addition to EPA.

The Rule is at Variance with the Act

But this rule is not going to fly and here is why: by law, the proposed rule must be in accordance with the letter and the spirit of the original Act of Congress that authorized the program. The rule is at variance with the Act because:

- the National List Procedure governing materials and substances approved for use in organic farming, handling and processing has not been followed;
- the USDA National Organic Program staff has usurped the

power and authority of the National Organic Standards Board, overruling its decisions, and;

- the spirit of the Act has been compromised throughout by imposing criteria based on agronomic and “sustainable” doctrines, as well as the Environmental Protection Agency.

The *Organic Foods Production Act*, and organic farming itself are a response to the failure of the EPA and other regulatory bodies like, the Occupational Safety and Health Administration (OSHA), the Food and Drug Administration (FDA), and the Food Safety Inspection Service (FSIS) to address agricultural pollution on-farm and in the manufacture and application of farm chemicals.



Organic farm with diversified cropping on contour strips. Welsh Family Farm, Lansing, Iowa.

The *Organic Foods Production Act of 1990* is *The Mouse That Roared*. When USDA finally attempted to implement the little thing, when they really started to figure out what organic farming implies about conventional agriculture and food safety, there was no recourse but to set a trap for it by creating an implementation procedure that would kill it.

Two avenues remain open to organic farmers, consumers and environmentalists. One is to call for the U.S. House of Representatives to use the *Regulatory Flexibility Act* as the tool to reject the proposed rule on the National Organic Program. The result should be that an entirely new staff should be brought on to compose a new proposed rule that the organic stakeholder community can support and that will therefore be in accordance with the *Organic Foods Production Act*.

The other avenue, is to address the stillborn rule as it is written

The Organic Farmers Marketing Association and NCAMP in a side by side comparison of the Proposed National Organic

Program Rule with the *Organic Foods Production Act (OFPA) of 1990* have identified the following issues.

- The USDA is proposing to usurp the authority of the National Organic Standards Board (NOSB). The NOSB is the public part of the public/private partnership designated in OFPA to be the gatekeeper in reviewing of the four classes of substances that can be used on organic farms and in the processing of foods labeled and sold as organically produced.
- In doing so, USDA staff have repudiated testimony by farmers and consumers and ignored the official votes of the NOSB when making recommendations to the Secretary of Agriculture on approved and prohibited substances.
- Contrary to the NOSB recommendations, USDA has proposed to allow synthetic substances, sewage sludge, synthetic fertilizers, pesticides, and environmentally deleterious cotton defoliant. And with cynical, unjustified, and almost curious motive, USDA has devised a novel and unwarranted criteria to accept what they define as “incidental additives,” all of which contribute to allowing illegitimate substances which were never recommended by the NOSB to the Secretary of Agriculture for use in organic production, and were actually opposed officially. It is as if the intervening seven years of work evaporated.
- This criteria also allows the use of synthetic substances, ingredients, processing aids, food additives, enzymes, irradiation and genetically modified and transgenic organisms in processed organic foods, choosing to call them, once again, “incidental additives,” when OFPA strictly forbids the use of such substances and materials nor for them to contact and be part of processed organic food products.
- And in great and hurtful deference to EPA, USDA has chosen to not review the synthetic inert ingredients used in botanical pesticides applied, as necessary, on organic crops. Inert ingredients compose usually as much as 95% of the formulation in a pesticide and are chemicals that are considered “non-active,” or not designed for the same use as the chemical listed as the active ingredient on the label. Organic farmers and consumers want to know the entire constituency of products approved for use on organic farms.
- Having not found a loophole through which synthetic agriculture would be acceptable in organic farming, USDA made its own. Or, in USDA’s own words: “No distinctions should be made between organically and non-organically produced products in terms of quality, appearance, or safety.”

Glad that they made that clear?

- Regarding the raising of livestock for organic milk and dairy, eggs and meats, USDA is proposing standards that are contrary to OFPA and inconsistent with organic farming and handling. USDA is proposing the following, contrary to OFPA, for organic livestock: synthetic substances, including antibiotics, therapeutic medicines and paracitides be



Bill Welsh, organic farmer and member of the National Organic Standards Board, standing in his organic corn and barley field.

allowed for all types of livestock with normal FDA withdrawal times; that every existing dairy farm can convert to organic farming by simply feeding organic feed for 30 days; that synthetic substances like amino acids and reprocessed protein may be fed to dairy, poultry and livestock labeled and sold as organically produced, and that high-concentration confinement feeding of livestock is acceptable. Consumers of organic products don’t want to eat food produced in that fashion.

- Most alarmingly, USDA proposes that livestock can be fed up to 20% non-organic feed, which will be an avenue for feed and concentrates from genetically modified organisms (GMOs) to enter the organic production stream. It is a commonly held doctrine in traditional organic farming that animals have to be fed completely organic feed from birth.

All of the above eviscerates the idealism of the *Organic Foods Production Act* and, if implemented, does nothing to distinguish organically produced products from those that are produced conventionally, which of course may have been the intent of USDA. It The USDA’s pathetic history in implementing OFPA is a measure of how little our democracy can do in the face of pressure brought by the seamless relationship between government and big business.

Turning back the clock on 15 years of steady, rational improvement in the public sector and at the state level, USDA brazenly now wants the public to comment on what has already been largely decided upon.

In short, USDA’s entire effort on the National Organic Program is a disaster. The community will reply and respond, running the procedural gauntlet according to regulatory requirements, citing dockets, providing substantiating research documents, and civilly contradicting the faulted language. We deserve much better than this. And we’re going to get it too.

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