

# Proposals That Violate the Law Have Deep Roots

## Stick to the Organic Foods Production Act; It's good and it's sound.

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When it comes to proposing implementation of the *Organic Foods Production Act* (OFPA), proposals that violate the law have been floating around the U.S. Department of Agriculture since the National Organic Standards Board (NOSB) was put in place in 1992. The appointment process of NOSB members itself has been the subject of concern among those interested in a National Organic Program that conforms to the spirit and letter of the act.

President Bush's Agriculture Secretary appointed the original NOSB contrary to the U.S. Senate Committee Report language. The Report read, "Prior to full implementation of the organic standards in September 1992, the Committee recommends that the Secretary appoint farmers who have operated organic farms under existing state or private standards. Such farmers will have the insight and knowledge necessary to guide the Secretary in implementing the title."

Instead of appointing experienced farmers as an interim Board, many special interests and those with contacts in the Republican administration were selected and seated. Of the 13 original appointees, only two certified organic farmers were placed on the original Board and one of them was a consumer representative. As appointees' terms were completed, many new appointees have been selected based on a criteria of who one knows (Democratic Party supporter) or what economic clout one has, rather than documented experience regarding the matters the Board is responsible to handle. This situation is symptomatic of government administration run by politics, not criteria and qualifications.

The whole issue is really who should have the right to define what is organic. Should it be organic movement participants exclusively? Do engineers ask truck drivers to design bridges?

The NOSB recommendations to the Secretary of Agriculture, in violation of OFPA, include:

- **allowing the use of synthetic substances in "organically produced"** processed foods as processing aids, food additives, enzymes, colorings, flavorings and ingredients.
- **allowing active synthetic substances in organic crop production.**
- **categorical allowance of synthetic inert substances in organic crop production** without proper OFPA evaluation.
- **allowing active synthetic substances in the feed** of "organically produced" meat, eggs and dairy products not permitted for consideration under OFPA.
- **categorically allowing active synthetic substances as medical treatment and parasiticides in livestock** and selling the livestock products as "organically produced" eggs and dairy products.
- **allowing only 3 months of "organically produced" feed to be fed to dairy animals** used to produce milk or milk products labeled "organically produced."
- **allowing non-certified processors** to handle, package, process or store "organically produced" products.
- **allowing confinement of mammalian livestock and poultry** without access to pasture.
- **allowing non-disclosure to the public of certification documents** and residue testing on specific farms and handling operations producing "organically produced" food and fiber products mandated under OFPA.
- **not providing a usable, clear and transparent National List petition, review, evaluation criteria and process.**
- **allowing organic ingredients to be substituted with conventional ingredients when certified organic ingredients are "not commercially available."**
- **not providing an outline for the development of organic farm plans** that reflects the fundamental and existing organic farming practices and systems such as legume based rotations and organic matter enhancement.

On the other hand, other NOSB recommendations on the Accreditation/Certification process and requirements, potential pesticide drift, mixed organic/conventional farming, the organic handling operation and wild crop plans and the initial livestock recommendations (changed by participation of a new NOSB member at the last minute) contributed excellent, well-analyzed proposals for the organic community and the Secretary to consider.

A reading of the record indicates that USDA did indeed go much further in violation of OFPA than the NOSB. However, in many cases, the basis for the USDA's deviations from OFPA are the NOSB recommendations or non-recommendation.

In effect, USDA in the proposed rule has carried to an extreme many of the violations that were first introduced by the NOSB. For the USDA National Organic Program to be trusted by organic farmers and consumers, surgical changes are now in order in the proposed organic rule and the criteria for selection of NOSB members. The organic community needs to make absolutely clear to USDA who should define "organic" within the context of OFPA. The NOSB should be made up exclusively of certified organic farmers, handlers and active and informed organic consumers to fulfill the stakeholder representation required by OFPA.

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