

# See What Some Members of Congress Are Saying About the Proposed Rule

Make sure that your elected members of Congress speak out and take action

**Statement of U.S. Representative Peter DeFazio (D-OR) before the USDA hearing on the proposed organic rule in Seattle, WA, February 26, 1998.**

As the House author of the legislation mandating national organic food standards, I would like to comment on a particular aspect of the Department of Agriculture's (USDA) proposed organic standards rule. I will be submitting further comments on the proposed rule.

I am extremely concerned with the USDA's interpretation of the authority granted to the Secretary of Agriculture to determine the National List of allowed synthetic materials. The USDA's interpretation of Section 6516 (d), Procedure for Establishing National List, threatens the integrity of a national organic label and discourages public comments. It is my understanding that the USDA has interpreted this section as giving the Secretary the authority to add items to the National List rejected by the National Organic Standards Board (NOSB). The law was never meant to grant the Secretary this authority.

The intent of the law was to give the NOSB sole authority to place items on the National List. The Secretary is granted the authority to remove items from the NOSB's proposed national list. However, the Secretary was not given the authority to add items to the National List because it

would completely undermine the authority of the NOSB. In fact, the fear of the Secretary being granted too much power over the National List was the reason part two of the procedure for establishing a National List was added. Section 6516 (d) (2) states, "The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or the Proposed Amendments to the National List." If the title of part two, "No Additions," was not clear enough, surely the explanation removes any doubt.

Public input was a major factor contributing to the suc-

cess of the organic industry. The *Organic Food Production Act (OFPA) of 1990* was based on the historical practices of the organic industry. A national organic label was meant to be developed as a public/private partnership with minimal influence by the Secretary. It is not much of a partnership if the Secretary can undo all of the input of citizens by adding items to the National List that the public has already rejected. This interpretation says to the public, "comment all you want, in the end the national organic label will be whatever the Secretary wants it to be." I cannot think of a better way to destroy the organic industry than to ignore the input of the organic growers and consumers, as this interpretation clearly does.

If the USDA continues to stand by this interpretation, it is very likely that it will be challenged in the courts. It would be ironic if the organic industry has to go to court to protect the

national label from abuses by the Secretary. The possibility of deceit, fraud and abuse of organic labels was one of the main reasons the industry sought a federal law requiring a uniform national label.

The USDA's interpretation of the law threatens the future

of the organic food industry. Even if the current administration has the best intentions toward the organic industry, future administrations may not. Unfortunately, even this administration has used this authority to add items to the list that the public has already rejected.

Failure to address this problem now will render any other changes to the proposed rule worthless. The USDA's interpretation of the power yielded to the Secretary can easily undo any changes to the proposed rule that the public demands. I sincerely hope the USDA will keep the future of the national organic label where it belongs, in the hands of the people.

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***The USDA's interpretation of the law threatens the future of the organic food industry.***

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## Statement of U.S. Representative Frank Pallone, Jr. (D-NJ) before the USDA hearing on the proposed organic rule in New Brunswick, NJ, March 5, 1998.

### My message is simple: START OVER!

It is my understanding that after years of meetings by the National Organic Standards Board (NOSB), the U.S. Department of Agriculture (USDA) has finally issued a proposed rule for a National Organic Program (NOP). Unfortunately, the USDA's proposed rule subverts the intent of the *Organic Foods Production Act of 1990*, as amended (7 U.S.C. 6501 *et seq.*) and deviates far from the recommendations of the NOSB.

As comments from mothers, farmers, and retailers at previous hearings have illustrated, the proposed rule is off the mark. It is unconscionable to claim that foods subject to irradiation, municipal sewage sludge and genetic engineering are organic. Furthermore, a proposed rule that would prevent product differentiation above and beyond the proposed rule would deal a blow to the consumer's right-to-know. The proposed rule should be re-written, re-submitted and re-heard with a new public comment period.

### Background

As you know, Congress passed the *Organic Foods Production Act of 1990 (OFPA)* with the intent to clearly establish a more uniform standard for organic food labeling. OFPA was designed to prevent consumer confusion of what is or is not an organic food. In addition, OFPA was enacted to establish a list of substances that would be considered organic to provide consumers with consistent, truthful and useful dietary information.

Since OFPA's passage, an advisory board, the NOSB, was created to examine these questions and present recommendations to the Secretary of Agriculture. After more than a dozen meetings, the NOSB provided its initial recommendations to the Secretary in 1994. Thereafter, additional recommendations have been presented by the NOSB. On December 16, 1997, the Secretary, through the Agricultural Marketing Service (AMS), published a proposed rule and is now seeking public comment on the same.

### What is Organic?

Determining what should be labeled organic goes to the crux of the problem with these proposed rules. Already, you have received public comments expressing outrage over the proposed rule from hearings in Texas, Iowa and Washington (the State). This hearing represents the final of the four and I expect continued unanimity from those testifying today in the charge to throw out the proposed rule in its current form.

It is my understanding that the proposed rule would allow foods to be labeled organic even if subject of irradiation, municipal sewage sludge and genetic engineering. Most consumers would not consider these types of foods organic. While these processes may have merit for our overall food supply, it

is misleading to consider labeling such foods as organic. This is about having an informed consumer.

Will the average American consider food that has been exposed to ionizing radiation that is the equivalent of receiving 30 million chest X-rays to be organic?

Will the average American consider food that has been subject to genetically engineered organisms to be organic, particularly when the European Union prohibits the use of genetically engineered organisms for their organic foods?

Will the average American consider food that has been manipulated by municipal sewage sludge that may contain over 60,000 toxic chemical compounds to be organic?

The answer to these three questions is a resounding, "NO!" The goal is to create a more standardized definition of what is and is not organic. It is to give consumers confidence in the foods that they buy. If a food is labeled organic the consumer will likely not believe that one of the processes outlined above could be included in the definition. The proposed rule needs to be re-written to avoid confusing consumers.

### Guaranteeing a Consumer's Right-to-Know

The second issue that I want to discuss is what many call "eco-labels." If the proposed rule is adopted without modification, then labels that would inform consumers above and beyond what is termed organic would be prohibited. It is my understanding that products now in the market can provide information about production methods, such as "raised without antibiotics" or "raised without hormones." Once organic is defined with a uniform standard, organic farmers and retailers should be permitted to provide additional truthful labels above and beyond what is deemed organic to better inform the consumer.

Let me be clear. I am not advocating that the USDA allow fly-by-nights to label their foods as organic outside of the uniform standard that is finally adopted. I am advocating that once a food is deemed organic by the USDA, the farmer or retailer should be able to provide additional information to the consumer. If food that has been irradiated is included in the definition of organic, farmers should be able to affix a label that indicates whether or not their food has been ionized by radiation. This will only better inform consumers of their options. The proposed rule needs to be re-written to address this concern.

The proposed rule for a National organic Program needs to be reexamined. There is a need to have a uniform standard for organic foods, but the current approach is unacceptable. Consumers expect not only consistent labeling of organic foods, but expect honesty in what is considered organic. It should be re-written, re-submitted and re-heard with a new public comment period.