

Building a Public Record that Counts

How to have impact that really makes a difference

Richard Lance Christie

My views on how to respond effectively to the proposed National Organic Rule are based on some thirty years experience as a bureaucrat and as an activist outside of government. I drafted legislation and regulations for public hearing and adoption in both federal and state government. (I then “went straight” and now grow organic food.) I have more recently participated in public hearing processes from the activist side of the fence. The strategy that maximizes our likelihood of good outcomes is to lay down a solid evidentiary record, no matter what the U.S. Department of Agriculture (USDA) does after the public hearing process closes on April 30, 1998. This needs to have two components:



On organic farms, integrated livestock with pasture rejuvenate soils.

Indicate Unacceptable Language; Provide Acceptable Language

First, the various organizations and individuals involved with organic agriculture need to turn in excruciatingly detailed line-by-line critiques.

From long experience, I find the format that works best is to take the language you wish to see altered, and alter it. I use legislative draft format, striking out existing language which is objectionable, redlining new language I supply, and leaving the balance of the regulatory text in standard font. The

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goal here is that no bureaucrat has to think or interpret to arrive at the desired language; they only have to decide to adopt the language change I specify. For each language change, I provide an explanation of why the old language doesn't satisfy OFPA authorizing legislation, isn't feasible, is not clear,

or whatever, and/or why the new language I provide does satisfy OFPA, is feasible or consistent, clarifies, etc. In summary, provide the change you desire verbatim, then explain why the USDA needs to decide to adopt that change in the regulatory language.

Massive Public Response Needed

The second component of the campaign is getting massive response from consumers, correctly addressed and with docket numbers, etc., so the USDA cannot exclude them from the docket record. The thrust of these letters needs to be testimony from consumers that the thing about an organic label which gives them confidence and choice is that substances and processes that have not been tested by and integrated into the natural scheme of things by evolution are not used or present in “organic” food. They wish to have an organic label which permits them to choose to avoid toxic metals and chemical contamination possibility; prions, other pathogens, antibiotic residues, possible hormone disruptors, etc., in meat; oddly broken protein chains in irradiated food; and to support agriculture which builds the soil and does not burden the environment with fugitive chemicals and erosion.

Genetically engineered organisms, municipal sludge toxics, animal cannibalism, and irradiation are all things which the organic label should enable consumers to avoid if they choose to. Proponents of these things can argue their case for the safety or desirability of these things in the public dialogue,



Organic certification stretches from the farm through handling, packaging, processing and storing to the retail sales counter.

and people will decide as they see fit. We need to have hundreds of people making this point, because the authorizing legislation and USDA Secretary Dan Glickman identify consumer confidence and choice as the basic *raison d'être* for having national organic labeling rules.

It doesn't matter if the USDA functionaries who constructed the draft rule monster are just ignorant and inept, or are savvy but inclined to be handmaidens of the special interests behind irradiation, factory farming, chemical inputs, genetic engineering, et al. The same solid evidentiary record which is most likely to educate, persuade (or scare) USDA bureaucrats into revising the regulations per our input is the same solid evidentiary record which will persuade a judge that the draft rule does not reflect the Congressional direction in OFPA if USDA refuses to make acceptable changes. From the government side of the



Legumes, the basis of organic crop and livestock farming.

fence, I know that the technicians like me who put regulations together were often under orders from policymakers to warp regulations to accommodate special interests. If, during the public hearing process, the evidentiary record made it clear that the draft regulations would be subject to successful suit in court, then the bureaucracy had an excuse to offer the special interests and their political bagmen as to why the Department has to produce honest regulations. The most corrupt hack has survival sense to realize that he does not want to find himself in court having his regulations thrown out, and having the legislature jumping his department for incompetence and insubordination. It is useful to communicate to these folks that, if they don't come around and fix the rule to be consistent with the NOSB's recommendations, they are going to be enjoined, likely to lose in court, and be hauled before

Congress to explain why they've managed to waste 5 years and \$3 million coming up with regulations that ignore the intent of Congress. The draft rule is so badly and overtly out of compli-

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ance with the authorizing legislation that it is possible to guarantee this outcome if the USDA doesn't amend the rule back into compliance with the Organic Food Production Act (OFPA) and NOSB's recommendations.

For those folks who are inclined to agitate for cleaning house at the USDA, repealing OFPA, etc., all I can say is "Go for it!" Effective public interest advocacy campaigns have many different parties working on different aspects of the whole. What I wish to emphasize is the foundation of success in this campaign is laying down a solid evidentiary record in the public comments sent in. With it, we are almost certain to avoid being stuck with ruinous "organic" rules. Without it, we might well find ourselves being "rolled."

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