



BEYOND PESTICIDES

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October 18, 2005

Dear Conferee:

In the absence of a clear agreement on the standards and labeling of organic food that bridge consumer, farmer, and processor interests, we strongly oppose statutory language changes to the *Organic Foods Production Act* (OFPA) when the House-Senate Agriculture Appropriations conferees meet over the next several weeks. We come to this position after several months of unsuccessful attempts at negotiating key issues and proposals regarding the allowance of synthetic substances in the highest category of organically labeled processed food. Attempts to amend OFPA through the appropriations process or other legislative vehicles in the face of deep substantive disagreements will cause severe divisiveness and undermine consumer confidence and trust in the organic label and market. Instead, Congress should allow the regulatory process to move forward as ordered by the U.S. Court of Appeals in *Harvey v. USDA* and afford consumers and other stakeholders the opportunity to participate in an open and public discussion that enables fair and informed decision making.

We appreciate the attempts of many in Congress to raise crucial issues surrounding the truthfulness of the organic label and USDA's compliance with the spirit and standards of the *Organic Foods Production Act*. However, it has become clear that a successful resolution of key differences on the allowance of synthetic substances in the highest category organic is not possible at this time. We believe that it would be counterproductive for Congress to intervene without clear agreement among all the parties, including consumers who represent the foundation of the organic market. An effort to move forward without such an agreement of stakeholders would jeopardize the value of the organic label.

As you know, *Harvey v. USDA* has brought into sharp focus key issues regarding the use of synthetic substances in processed foods labeled organic. The case put a spotlight on USDA's failure to adhere to a central legal standard and principle in the Act. The Act establishes processed food labeled organic (displaying the USDA organic seal) as 100 percent natural, of which 95 percent must be organic ingredients and up to five percent may be non-organic when organic is not available.

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Other categories of organic labeling, including the "made with organic" label, allow for the use of synthetic ingredients.

This issue and its resolution has direct bearing on how consumers view organic, continued consumer confidence in food labeled organic, and sustained consumer willingness to pay a premium to support organic production and handling. We have aggressively promoted organic for nearly three decades precisely because of the importance of shifting away from hazardous materials in food production.

While we believe in the structure and spirit of the law with regard to the National Organic Standards Board (NOSB), the court found that the NOSB should operate within the constraints of the law and adhere to basic principles that ensure consumer confidence. With this said, we had hoped that the Organic Trade Association (OTA), representing the organic industry, would be willing to sit down with consumer and farm groups to try to hammer out issues of concern that might require legislative changes. To that end, we, together with other organizations, proposed a series of issues for discussion and resolution.

We have sought to find common ground and resolution concerning proposed amendments to OFPA. Unfortunately, OTA representatives and others have refused to participate in formal discussions or negotiations on the issues addressed by their amendments. Instead, OTA representatives and others have pursued a course and proposed legislative language that we cannot support. This course is unnecessarily adversarial and, we believe, will have long-term negative repercussions if followed by members of Congress. In other words, going into a House-Senate conference committee meeting without these issues settled in advance through a stakeholder-negotiated process will surely result in positions and legislative language that undermine consumer confidence in organic food.

We believe that Congress should defer to the USDA regulatory process at this time and not seek to amend the *Organic Foods Production Act*. We urge you to protect OFPA by rejecting amendments to the Act, while supporting a transparent regulatory process at USDA.

Thank you for your attention to this critical matter.

Sincerely,

Jay Feldman
Executive Director