Farmers' Legal Action Group, Inc.

1301 Minnesota Building
46 East Fourth Street
Saint Paul, Minnesota 55101-1109
(612) 223-5400
(612) 223-5335 (fax)

Patricia A. Jensen
EXECUTIVE DIRECTOR

Lynn A. Hayes
STAFF ATTORNEY

Randi Ilyse Roth
STAFF ATTORNEY
Admitted in Minnesota and Illinois

Juliet M. Tomkins
STAFF ATTORNEY

Timothy J. Sullivan
STAFF ATTORNEY
Admitted in Minnesota, Montana, and New Mexico

Bruce M. Kleven
STAFF ATTORNEY

MEMORANDUM

TO: NATIONAL ORGANIC STANDARDS BOARD

FROM: TIMOTHY J. SULLIVAN Timothy J. Sullivan

DATE: MAY 10, 1993

RE: **LEGAL ANALYSIS OF THE ORGANIC FOODS PRODUCTION ACT**

In response to legal questions raised by members of the private organic industry and the Southern Sustainable Agriculture Working Group (SAWG), Farmers' Legal Action Group (FLAG) has reviewed the Organic Foods Production Act of 1990 (OFPA)[1] to: (1) analyze the role of the private organic industry in the national organic certification program; and (2) analyze the appeals section of the act to determine if it adequately protects the rights and interests of organic producers/handlers and private certifying agents adversely affected by an organic certification program determination.

Analysis of these issues requires a comprehensive review of the OFPA certification process, which is a difficult undertaking because OFPA is an ambitious and complex statute that is in some respects still incomplete.[2] The concept of government and private sector partnership is at the heart of the OFPA statutory scheme, and this memorandum focuses on the nature of that part-

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1 The Organic Foods Production Act of 1990, Pub. L. 101-624, 7 U.S.C. §§ 6501 et seq.

2 My analysis of OFPA seemed to raise as many questions as it answered. Significant portions of the OFPA certification process, such as enforcement procedures and appeals, have not been developed. Questions about private sector autonomy and the extent of state regulatory authority over certifying agents have no certain answers. Conflicting statutory provisions within OFPA add to the confusion. The purpose of this analysis and accompanying recommendations is to present an assessment of the needs and concerns of the private sector to the NOSB on behalf of Southern SAWG and members of the private sector that would like to help shape the emerging OFPA process.

nership in the context of the four basic components of the OFPA certification process.[3]

SCOPE OF ANALYSIS

The memorandum approaches OFPA from the point of view of the private organic industry. I have tried to step back and look at the big picture to see how OFPA was designed to work. I used the following outline of questions to guide my analysis:

1. Can existing private organic certification organizations maintain their independence and autonomy under the OFPA organic scheme?

   a. What is the distinction between the national organic certification program and USDA-approved state certification programs (state programs)?

      (1) To what extent will the federal government directly administer and regulate organic certification programs and the activities of certifying agents?

      (2) What is the nature of the authority delegated to state programs?

      (3) Will state programs be allowed to regulate the activities of accredited private certifying agents who do business within the state?

   b. Can accredited private certifying agents develop their own certification programs?

      (1) Can private certifying agents set organic standards and requirements that exceed minimum federal standards?

      (2) Can accredited private certifying agents place their own organic certification label on food

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3 These four components are set out in 7 U.S.C. § 6503. They are:
1. The National Organic Certification Program;
2. USDA-Approved State Certification Programs;
3. The Accreditation Program--Accredited Certifying Agents and Peer Review Panels; and
4. The National Organic Standards Board.

products in addition to or in lieu of the federal organic certification label?

c. Do accredited private certifying agents have a statutory right to coexist and function independently in states with state programs?

2. How does the accreditation process fit into the organic certification scheme?

   a. Is the Secretary required to accredit all applicants who demonstrate sufficient expertise in the organic certification field and meet all certification requirements of OFPA?

   b. Can the Secretary delegate responsibility for the accreditation program to state programs?

   c. What is the role of "peer groups" in the accreditation process?

3. How will the organic certification process be monitored, and how will enforcement procedures be coordinated between the federal level (the USDA), state programs, and accredited certifying agents?

   a. Who will make the final determination that an organic producer/handler or certifying agent has failed to comply with OFPA standards and requirements, and who will execute sanctions in these cases?

   b. How will the state certification program standards and requirements be enforced, and who will be responsible for enforcing them?

4. Who will bear the costs of the organic certification process?

5. What are the legal implications of the effective date of OFPA?

6. Given the unusual relationship between federal and state government and the private organic industry under the OFPA certification scheme, what kind of rules and appeal procedures are needed to assure fair and impartial administrative reviews of adverse determinations?

These are recurrent questions that the private organic industry is asking about OFPA. They raise important legal issues that need to be addressed while the OFPA certification program is still in the formation stage. Although the implementation of OFPA presents some very difficult challenges, failure to address these challenges now will create far more difficult problems in the long run. During the next few months, the National Organic Standards Board (NOSB) will help shape the OFPA certification process, and hopefully, the issues raised and recommendations made in this memorandum will assist the NOSB to assess the needs and concerns of the private organic industry as the NOSB formulates its own recommendations to the Secretary.

GENERAL PURPOSE AND SCHEME OF OFPA

OFPA requires the USDA to implement a mandatory organic food certification program to assure consumers that food labeled and marketed as organic has in fact been produced and handled without the use of synthetic chemicals.[4] OFPA establishes minimum federal standards that organic producers and handlers must meet to be able to label and market organic food products.[5] OFPA also requires certification of organic production and handling operations through "accredited certifying agents" to verify that federal organic standards are met.[6] Finally, OFPA establishes penalties that apply to producers and handlers who label and/or market food products as organic without certifying the product through the USDA organic certification process.[7]

Although the Secretary of Agriculture (the Secretary) is ultimately responsible for the administration of the national organic certification program, Section 6503(d) of OFPA **requires** the Secretary to delegate certification responsibilities to "accredited" certifying agents. This mandatory requirement is an important component of the OFPA certification scheme because it was de-

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4 7 U.S.C. § 6501.

5 7 U.S.C. § 6504. Note that Section 6507 authorizes states to implement USDA-approved state organic certification programs and allows such states to place additional certification requirements on organic producers and handlers, as long as those additional requirements further the purpose of OFPA; are not inconsistent with OFPA; do not have a discriminatory effect; and are approved by the Secretary of Agriculture.

6 7 U.S.C. § 6503(d).

7 7 U.S.C. § 6519. Note that 7 U.S.C. § 6519(e) also establishes penalties that apply to certifying agents who fail to comply with OFPA certification requirements.

signed to assure the inclusion of state government and the private organic industry in the national organic certification program.[8]

THE LEGISLATIVE HISTORY OF OFPA DESCRIBES A PARTNERSHIP BETWEEN GOVERNMENT AND THE PRIVATE ORGANIC INDUSTRY

The legislative history of OFPA describes the national organic certification process as a "partnership between government and private organizations"[9] and encourages the use of private organizations as certifying agents to take advantage of the expertise that has already been developed in the private organic industry.

The following excerpt from the Senate committee reports on OFPA reflects the intent of Congress to utilize the expertise of existing private certification organizations:

> The need for national standards for organic production led to several legislative initiatives. In 1989, three bills were introduced that contained organic food provisions. The Organic Foods Act introduced by Senator Leahy included a definition, a certification scheme, a promotion program, and a pilot label program. The Farmer Conservation Water Protection Act introduced by Senator Fowler and the Conservation Enhancement and Improvement Act introduced by Senator Luger both included definitions of organic production.
>
> The organic industry applauded the various legislative efforts to develop national standards but argued that Congress should limit the role of government in certification activities. Rather than reinvent the wheel, the industry argued, a national program should take advantage of the network of private organic certification organizations that exist in nearly every state.
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> The organic industry, as well as consumer and environmental advocacy organizations, argued that the

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8 7 U.S.C. § 6514(a). This section provides that only state programs and private persons can be accredited as certifying agents. (See the discussion of the accreditation program on pages 10-15 of this memorandum.)

9 Senate Report of the Committee on Agriculture, Nutrition and Forestry to Accompany S. 2830, page 291.

> expertise in organic farming is found at the grass roots level--the private farmers and advocates who have been working on their own for years. They argued for the need to limit severely the federal government's discretionary authority and involvement in this industry since the government has little experience in this industry. Some groups even argued that the industry should remain self-regulated.
>
> On February 8, 1990, Senator Leahy introduced S. 2108, a revision of his earlier legislation and one which reflected the advice received by many of these individuals and organizations. This new legislation proposed a partnership between the government and private organizations in standards setting and certification. On March 22, 1990, the Subcommittee on Research and General Legislation held a hearing on S. 2108, the Organic Foods Production Act of 1990, which formed the basis for this title.
>
> Purposes and Need.
>
> The Organic Foods Production Act combines a national standard for organic labeling, tough enforcement provisions, a creative use of state and private organic farming programs, and a national promotion advisory committee and a research program to build a solid foundation for the organic food industry.[10]

This excerpt reflects a presumption that the private organic industry has already demonstrated the leadership and expertise needed to implement an effective national organic certification program. The committee report contrasts the perceived expertise of the private organic industry with a lack of government experience in the field, suggesting a need to defer certification responsibilities to the private organic industry and limit government involvement so as "not to reinvent the wheel." This presumption forms the basis for the provision in Section 6503(d) that requires the Secretary to implement the national organic certification program through accredited certifying agents, and it explains why Congress expressly required the inclusion of private entities in the accreditation scheme.

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10 Id. (emphasis added).

THE PARTNERSHIP BETWEEN GOVERNMENT AND THE PRIVATE ORGANIC INDUSTRY IS NOT EQUAL

The private organic industry supported OFPA based on assurances from legislators and USDA officials that the role of the private organic industry would be protected in the federal organic certification scheme. At first blush, the inclusion of private certifying organizations in the accreditation process appears to be consistent with the "partnership" theme discussed in the legislative history. In fact, OFPA does provide a role for the private organic industry, but it is not an equal role.

A close examination of OFPA reveals an imbalance of power and authority between government and the private sector that substantially limits the role of the private sector.[11] Analysis of the basic components of the federal organic certification program illustrates this point.

THE FOUR BASIC COMPONENTS OF THE OFPA CERTIFICATION SCHEME

There are four identifiable components in the OFPA organic certification scheme (the national certification program, USDA-approved state certification programs, the accreditation program, and the NOSB). These four components are described in 7 U.S.C. § 6503 as follows:

> **Section 6503.--National Organic Production Program.**
>
> (a) In General.
>
> The Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this chapter.

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11 7 U.S.C. § 6503 gives federal and state governments the authority to implement "certification programs," but there is no provision anywhere that gives this authority to private entities. Private certifying organizations can be accredited to perform the certification functions, but they are limited in their role as agents of the government entity responsible for implementation of the certification program. In essence, this means that the government has the authority to set the rules and control the certification program, and private certifying organizations are required to work for the government programs as designated agents if they want to keep working in the organic certification industry.

(b) State Program.

In establishing the program under subsection (a) of this section, the Secretary shall permit each state to implement a state organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this chapter.

(c) Consultation.

In developing the program under subsection (a) of this section, the national list under Section 6517 of this title, the Secretary shall consult with the National Organic Standards Board established under Section 6518 of this title.

(d) Certification.

The Secretary shall implement the program established under subsection (a) of this section through certifying agents. Such certifying agents may certify a farm or handling operation that meets the requirements of this chapter and the requirements of the organic certification program of the state (if applicable) as an organically certified farm or handling operation.

The National Organic Certification Program

The national organic certification program is the first component and foundation of the OFPA statutory scheme. From a legal standpoint, the national organic certification program is an exercise of federal preemption authority, and therefore the role of the federal government in the certification process is dominant and legally controlling.[12] In the context of the partnership concept

12 The United States Constitution gives the United States Congress the authority to pass laws that regulate interstate commerce. U.S. Const., art. 1, § 8 cl. 3. Once Congress takes action to regulate interstate commerce, federal law supersedes state and local laws under the Supremacy Clause. U.S. Const., art. VI, cl. 2. Such action is referred to as "federal preemption," which means a state cannot pass a law that is inconsistent with the federal law.

OFPA was passed because of the problems associated with inconsistent state laws and organic standards in the private

discussed in the committee report, this dominant role overshadows the roles of the other partners.

USDA-Approved State Certification Programs

State programs are the second component of the national certification program. Section 6503(b) requires the Secretary to "permit" states to implement state organic certification programs that meet OFPA requirements. State programs can set additional organic standards and requirements that apply to organic producers/handlers doing business within the state, provided that the additional standards and/or requirements are not inconsistent with OFPA and will not have a discriminatory effect in the organic foods marketplace.[13]

Under the provisions of Section 6503, a state organic certification program is not a separate and autonomous program that independently coexists with the national organic certification program, but rather is an expansion of the national organic certification program that is based on a delegation of federal authority to the states. This statutory interpretation is based on an analysis of the structure of Section 6503 and the language used in subsections (a) and (b).[14]

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organic industry. Because these inconsistences interfered with interstate transactions in the organic foods marketplace, Congress exercised federal preemption authority to regulate these transactions by establishing minimum organic standards.

13 7 U.S.C. § 6507(b).

14 Section 6503 is entitled "The National Organic Production Program." Section 6503 has four subsections, each relating to a specific component of the national organic program. Section 6503(a) requires the Secretary to establish "an organic certification program" for all producers and handlers of organic food products. This is the national organic certification program.

Sections 6503(b), (c), and (d) each refer back to Section 6503(a) for their point of reference. Section 6503(b) states, "In establishing the [national] program under subsection (a) of this section, the Secretary shall permit each state to implement a state organic certification program . . ." This language indicates a congressional intent to include state certification programs under the umbrella of the national organic certification program, and it provides discretionary authority to the Secretary to delegate implementation responsibilities to the states. This language

In terms of the OFPA partnership theme, the states appear to be in a middle position in a hierarchy, with the federal government at the top and accredited certifying agents at the bottom. State authority is limited to the extent that states cannot do anything that would conflict with a federal purpose or any provision in OFPA, and state participation is subject to the approval of the Secretary.

The Accreditation Program

The third component of the OFPA organic certification process is the accreditation program. The accreditation program is the key element in the OFPA partnership theme because it is the mechanism that allows the private sector to participate in the actual certification process. 7 U.S.C. § 6514 describes the accreditation program as follows:

> **Section 6514.--Accreditation Program.**
>
> (a) In General.
>
> The Secretary shall establish and implement a program to accredit a governing state official, and any private person, that meets the requirements of this section as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation.

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leads to the conclusion that state organic certification programs are an extension of the national organic certification program.

(b) Requirements.

To be accredited as a certifying agent under this section, a governing state official or private person shall--

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this section and Section 6515 of this title.

(c) Duration of Designation.

An accreditation made under this section shall be for a period not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

Section 6514(a) is a critical provision for two reasons. First, it rules out the possibility that federal agencies can act as certifying agents. Section 6514(a) requires the Secretary to implement an accreditation program for only two categories of applicants:

1. "Governing state officials" responsible for the implementation of state programs[15]; and

2. "Any private person."

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15 The term "governing state official" is defined under Section 6502(7) as follows:

> The term 'governing state official' means the chief executive official of a state or, in the case of a state that provides for statewide election of an official to be responsible solely for the administration of the agricultural operations of the state, such official, who administers an organic certification program under this chapter.

Based on this statutory definition, it is clear that for the purposes of Section 6514(b) a "governing state official" means a state official who "administers an organic certification program under this chapter."

Presumably Congress deliberately excluded federal agencies from the accreditation process because it wanted to avoid displacing a proven private certification industry with an inexperienced federal government bureaucracy. Section 6514(a) accomplishes this purpose by keeping the federal bureaucracy out of the certification business.

Second, Section 6514(a) puts private certification agents on equal footing with state certification agents. This is important because it reflects the intent of Congress to allow two or more accredited certifying agents to do business in the same state, even in states with state programs.[16] This congressional intent indicates an implicit limit on the state's authority to regulate the activities of accredited private certifying agents.

The accreditation process becomes more complex when a state program exists. There is an inherent tension in the OFPA accreditation program resulting from the fact that state certifying agents and private certifying agents are potentially in competition with each other. As long as they both are on equal footing, this problem will be minimized. However, if state programs are allowed to regulate the activities of accredited certifying agents, this balance between state certifying agents and private certifying agents will be disrupted or possibly destroyed.

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16 Committee report on the legislative history of OFPA states this intent as follows:

> Several state departments of agriculture contacted the committee and said that, while they supported organic certification, they preferred to continue using the system of private third party certification organizations rather than to develop new state programs to undertake this responsibility. Other state departments of agriculture felt strongly that they would like to take over the certification program completely.
>
> The committee decided that a certifying agent may be a state employee or a private entity. In this way the committee hopes to take advantage of the network of existing entities already engaged in certification.
>
> The committee intends to allow more than one certifying entity to certify within a state. For example, in one state the Natural Organic Farmers Association, the Organic Crop Improvement Association, as well as state employees could all be involved in certification.

Legislative History S. Rep. No. 101-357, page 294.

Logically, it seems apparent that the federal government needs to reserve the exclusive authority to make accreditation program determinations. If state programs are delegated this authority, there will be two results:

1. State programs that apply for accreditation as certifying agents will, in effect, be given the authority to approve their own applications.

2. Private certification organizations that apply for accreditation as certifying agents will face inherent discrimination in the accreditation process because of the potential competition between state certification agents and private certification agents.

Obviously these results would be detrimental to the OFPA certification scheme because the role of the private sector in the OFPA certification process would be seriously undermined. I think a strong legal argument can be made that Section 6514(a), on its face, requires the federal government to reserve exclusive authority over the accreditation program because of the inherent conflicts of interest that would result if state programs were delegated this authority. This argument is further supported by the express intent of Congress to allow private certifying agents to coexist (and function independently) with state certifying agents. However, 7 U.S.C. § 6515(j)(1) is inconsistent with this legal interpretation.[17]

Section 6515(j)(1) delegates to **federal and state government** the authority to make determinations that a certifying agent is not in compliance with OFPA. What is more alarming is that this section authorizes states to suspend the accreditation of certifying

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17 7 U.S.C. § 6515(j)(1) reads as follows:

(j) Loss of Accreditation.

(1) Noncompliance.

If the Secretary or the governing state official (if applicable) determines that a certifying agents is not properly adhering to the provisions of this chapter, the Secretary or such governing state official may suspend such certifying agent's accreditation.

agents.[18] Section 6515(j)(1) does not square with the accreditation provisions in Section 6514(a), and the inconsistency between these provisions raises serious legal questions. This inconsistency is an issue that should be addressed in the legislative amendment process to avoid legal disputes in the future. We strongly recommend that the authority delegated to the states in Section 6515(j)(1) and Section 6519(e) be revoked and also recommend additional language that would expressly require the Secretary to administer all aspects of the accreditation program.

The peer review process is another important part of the accreditation program scheme that warrants careful consideration. 7 U.S.C. § 6516 addresses the peer review process as follows (emphasis added):

> **Section 6516.--Peer Review of Certifying Agents.**
>
> (a) Peer Review.
>
> In determining whether to approve an application for accreditation submitted under Section 6514 of this title, the Secretary <u>shall</u> consider a report concerning such applicant that <u>shall</u> be prepared by a peer review panel established under subsection (b) of this section.
>
> (b) Peer Review Panel.
>
> To assist the Secretary in evaluating applications under Section 6514 of this title, the Secretary <u>may</u> establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the state governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable state government.

It is interesting to note the somewhat inconsistent character of the two subsections in Section 6516. Section 6516(a) states that the Secretary has mandatory duty to consider a "peer review report" in the accreditation decision-making process, which sug-

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18 7 U.S.C. § 6519(e) also gives states the authority to "revoke" a certifying agent's accreditation. See footnote 27.

gests that a "peer review panel" is also a mandatory component of the accreditation program.[19] However, Section 6516(b) states that the Secretary "may" establish a peer review panel, which indicates that the peer review panel is an optional component of the accreditation program subject to the discretion of the Secretary.[20]

We recommend regulations that require the mandatory inclusion of the peer review panel in the accreditation program. It simply makes sense to include organic certification experts in the accreditation decision-making process, and given the fact that government has limited experience in the field, the private sector is the obvious source of that expertise. The peer review panel will also strengthen the role of the private sector in the national organic certification program by ensuring that members of the private sector participate in both the development of accreditation standards and procedural requirements and the decision-making process which will select accredited certifying agents.

The National Organic Standards Board

The NOSB is the fourth component of the national organic certification program. The NOSB has two roles. First, the NOSB is responsible for establishing a national list of approved and prohibited substances that will be included in the standards for organic production and handling established under OFPA.[21] The second role of the NOSB is to make general recommendations to the Secretary concerning the implementation of OFPA.[22] Therefore, the NOSB is in a position to make recommendations to the Secretary concerning a broad range of issues, including all of the issues raised in this memorandum.

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19 The use of the word "shall" makes this provision mandatory.

20 If the USDA is receptive to the concept of a peer review panel, the inconsistency between subsections (a) and (b) of 7 U.S.C. § 6516 will be inconsequential. However, if there is any indication that the USDA is not inclined to implement a peer review panel in the federal accreditation program, the NOSB may want to recommend a technical amendment to Section 6516(b) that would change the word "may" to "shall," which would impose a mandatory requirement on the Secretary to establish the peer review panel.

21 7 U.S.C. § 6517(d).

22 7 U.S.C. § 6518(a).

The NOSB, like the accreditation program, was specifically designed as a mechanism for private sector participation in the OFPA certification process. In its capacity as an advisory board, the NOSB is, at least in part, the voice of the private sector. In a sense, the NOSB is a guardian of the role of the private sector in the OFPA certification scheme and, as such, is facing some difficult challenges.

Since the accreditation program is the key to private sector participation in the national organic certification program (because it allows private certification organizations to function as accredited certified agents), the issues discussed above in the section on the accreditation program are of particular concern to the NOSB. Placing strict limitations on the authority of states to administer or regulate the accreditation program, and establishing accreditation standards and procedures that will allow private certifying agents to function independently, and on an equal footing with state certifying agents, should be high on the list of NOSB priority concerns.[23]

WHO IS RESPONSIBLE FOR MONITORING COMPLIANCE WITH OFPA REQUIREMENTS?

OFPA discusses monitoring responsibilities in several different sections of the statute. Under 7 U.S.C. § 6506(a)(4), the Secretary, governing state officials (if applicable), and certifying agents are required to establish an annual certification process that will require organic producers/handlers to recertify their operations every year. Although Section 6506(a)(4) requires organic producers/handlers to submit an annual certification application to both the Secretary (or the governing state

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23 This memorandum identifies several additional key issues that are priority concerns that we believe the NOSB needs to address in its recommendations to the Secretary. These include the need for a peer review panel in the accreditation program (discussed in the accreditation section of this memorandum); establishing certification procedures that allow private certifying agents to set additional organic standards that exceed minimum program standards in the implementation of the organic plan; establishing rules that allow private certifying agents to use their own labels on organic products; establishing rules and procedures that authorize certifying agents to function independently and autonomously in states with state certification programs; and establishing an appeals system that would be conducted by an independent USDA appeals agency.

official if applicable) and the certifying agent, the certifying agent will be responsible for negotiating the organic plan with the producer/handler and keeping detailed records of the operation.[24] Certifying agents will also be responsible for conducting on site inspections and residue tests.[25]

Although 7 U.S.C. §§ 6506(a)(4) and 6511(a) generally require the Secretary, the governing state official, and the certifying agent to share monitoring responsibilities, several other provisions in OFPA suggest that certifying agents will primarily be responsible for these monitoring responsibilities. 7 U.S.C. § 6506(a)(5) and (6) specifically require certifying agents to do on site inspections and residue testing; and 7 U.S.C. § 6515(b) requires certifying agents to employ a sufficient number of "inspectors." As a practical matter, it appears that Congress intended certifying agents to perform most of the 'hands-on' tasks and responsibilities associated with the monitoring process.

Although OFPA provides detailed guidance concerning the monitoring of organic producers/handlers, it provides less guidance concerning the monitoring of the performance of accredited certifying agents. Certifying organizations that apply for accreditation will have to submit detailed documentation demonstrating sufficient expertise and showing that they can meet the certifying agent requirements in 7 U.S.C. § 6515, and they will have to reapply for certification every five years.[26] Through this process, accreditation officials will monitor certifying agents periodically.

As previously noted in this memorandum, 7 U.S.C. § 6515(j)(1) also gives both the Secretary and state governing officials the

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24 7 U.S.C. § 6513 sets out the requirements for an organic plan, and 7 U.S.C. § 6515 sets out the detailed monitoring responsibilities of certifying agents. Section 6513 gives the certifying agent the authority to negotiate organic plans with organic producers/handlers and make a final determination whether the organic plan meets the requirements of the certification program. 7 U.S.C. § 6513(a). Section 6515(c) requires certifying agents to maintain extensive records and provide the Secretary and/or state governing official access to these records. 7 U.S.C. § 6515(c).

The "additional guidelines" in 7 U.S.C. § 6511 include broad monitoring requirements, stating that the Secretary, the governing state official (if applicable), <u>or</u> the certifying agent is responsible for carrying them out.

25 7 U.S.C. § 6506(a)(5) and (6).

26 7 U.S.C. § 6514(c).

authority to suspend the accreditation of certifying agents who fail to meet OFPA requirements.[27] However, because the national organic certification program is still undeveloped, it is unclear how these determinations will be made procedurally.

HOW WILL OFPA BE ENFORCED?

Unfortunately, OFPA gives very little guidance on the enforcement issue. Although 7 U.S.C. § 6519 discusses penalties for OFPA violations and establishes that the Secretary and governing state officials have the authority to determine whether violations have occurred, the only mention of enforcement procedures in OFPA is in the General Requirements in Section 6506(a)(7), which states that the Secretary has discretionary authority to "provide for appropriate and adequate procedures."

7 U.S.C. § 6519(e) is significant because it pertains to violations by certifying agents and gives "the Secretary or governing state official (if applicable)" the authority to make a determination that OFPA has been violated, and it gives the decision maker the authority to **revoke** the certifying agent's accreditation. This provision is noteworthy because the authority to revoke the accreditation status of certifying agents goes beyond the authority to "suspend" accreditation as found in 7 U.S.C. § 6515(j)(1). Obviously, this heightens the concern about state encroachment on the independent status of private certifying agents (disruption of the balance between private certifying agents and state certifying agents), and arguably, it increases the risk that the private sector will be displaced in states with state certification programs.

The lack of tangible enforcement procedures in a statutory scheme as complex as OFPA is disquieting. Given the tension between government bureaucracy and the private sector and the fact that government agencies and the private sector will be both responsi-

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27 7 U.S.C. § 6519 sets out the penalties for organic producers/handlers and certifying agents that violate the provisions of OFPA. Section 6519(e) pertains to violations by certifying agents and gives "the Secretary or governing state official (if applicable)" authority to make a determination that OFPA has been violated and gives the decision maker the authority to revoke the certifying agent's accreditation. Notably, the authority to revoke accreditation in Section 6519(e) goes beyond the authority to "suspend" accreditation as set out in Section 6515(f)(1).

ble for enforcement and subject to enforcement, carefully thought out procedures are warranted.

The Secretary will be required to promulgate regulations to establish enforcement procedures, and FLAG intends to make specific recommendations concerning these enforcement procedures in the public comment process. Generally, these recommendations will pertain to requirements for substantiation of adverse determinations (explanation by decision maker in writing explaining the basis for the determination), clarification of delegation of authority to make determinations (most notably, a strong recommendation to prohibit states from making accreditation program determinations), and notification procedures regarding appeal rights and procedural deadlines. FLAG will provide these comments and recommendations with the NOSB when they are prepared.

OFPA APPEALS PROVISIONS

Section 6520 sets out the appeals provisions for OFPA as follows:

> **Section 6520.--Administrative Appeal.**
>
> (a) Expedited Appeals Procedure.
>
> The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing state official, or a certifying agent under this chapter that--
>
> (1) Adversely affects such person; or
>
> (2) Is consistent with the organic certification program established under this chapter.
>
> (b) Appeal of Final Decision.
>
> A final decision of the Secretary under subsection (a) of this section may be appealed to the United States District Court for the district in which such person is located.

Section 6520(a) sheds very little light on the OFPA appeals process. The term "expedited" has no legal significance. It simply means the appeals process should proceed quickly without undue delay. Section 6520(a) does require the Secretary to "establish" an OFPA appeals system, but it doesn't say who will be responsi-

ble for conducting the administrative review process or how this process will be conducted. These are critical questions that need to be addressed.

Section 6520(b) presumably grants to the U.S. district courts jurisdiction to review final OFPA appeal decisions, but there is some confusion resulting from the language used in the title of subsection (b). Technically speaking, an appellant in a federal administrative appeals process can file an action in the U.S. district court requesting judicial review of the validity of agency decisions (after the appeals process is exhausted).[28] The district court can review the administrative record and rule on the validity of the decision. If the district court rules against the plaintiff (i.e., the appellant), the plaintiff can appeal that decision to the federal court of appeals.

The use of the term "appeals" in the title of subsection (b) is confusing and misleading to the extent that it implies the U.S. district court is the final stage in the OFPA administrative appeals process. It is also somewhat troublesome from a legal point of view because it could raise legal disputes about limitations on the remedies available to plaintiffs in the U.S. district court. (Are the powers of the district court limited by this provision in any way?) Therefore, it is advisable to change the word "appeals" in the title of subsection (b) to "review." Although the likelihood of this problem arising under the existing title is remote, it can be easily fixed to avoid the possibility.

SUMMARY

The Role of Private Sector in the National Organic Certification Program

There has been much discussion about the meaning of certification programs and the rights of private certifying organizations. In a memorandum to Hal Ricker, dated June 30, 1992, William J. Friedman, secretary of the NOSB, reached the conclusion that OFPA prohibits private certifying organizations from developing and implementing their own organic certification program. In response to Mr. Friedman's memorandum, Kathleen Merrigan (a legislative aide to Senator Leahy who had a role in negotiating the

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28 5 U.S.C. §§ 701 et seq.

Senate OFPA bill), agreed that OFPA prohibits private certifying agents from implementing their own certification programs.[29]

I agree that OFPA, on its face, **establishes only one legal organic certification program**, and the authority to implement this program is delegated to the federal government and state governments with USDA-approved state certification programs. I have also concluded that OFPA does not allow private certifying agents to implement their own certification programs, and this diminishes the role of private certification organizations in the OFPA certification process. The question is to what extent.

As October 1, 1993 approaches (the effective date of OFPA), organic producers/handlers and private organic certification organizations are wondering if they will be able to do business in the future as they have in the past.[30] Many already believe that the private sector will be displaced by government bureaucracy under the national organic certification program. Hopefully, this conclusion is premature.

As a practical matter, the actual role of the private sector will depend on the policies and regulatory procedures promulgated at the federal level in the USDA rule-making process. The Secretary has a great deal of latitude (discretionary authority) to shape the national organic certification program through the regulatory

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29 Memorandum from Kathleen Merrigan to the NOSB, dated September 30, 1992, page 3. Ms. Merrigan qualified her position stating that OFPA nevertheless allows accredited private certifying agents to establish "standards and practices that farmers must follow in addition to the national and state standards . . . through the authority vested in them in the farm plan provision of the law." The farm plan provision of the law referred to in Ms. Merrigan's statement is in 7 U.S.C. § 6513.

30 Statements made by USDA employees indicate that the national organic certification program will not be implemented on October 1, 1993 because the USDA cannot promulgate regulations within this deadline. This will create a serious legal problem because organic producers/handlers will nevertheless be required to comply with OFPA certification requirements in order to label organic products after that date. Unless the USDA implements an interim program to temporarily certify organic products, organic producers/handlers will be caught in a Catch 22 situation in which they will be in violation of the law because the certification program has not been implemented by the responsible USDA agency.

process, and he is likely to encourage participation of the private sector for the following reasons:

1. The OFPA statutory scheme clearly reflects a legislative intent to delegate certification responsibilities to state and private entities.

2. The cost of implementing a federal certifying agency would substantially increase the USDA budget at a time when federal spending is being slashed to reduce the federal deficit.

3. Private and state certifying agents are better-suited to understand and meet the differing local and regional needs of the organic industry.

The expectations and goals of state governments will also have a significant impact on the design and character of state programs. Many states embrace the idea that private industry should be left intact, and some are relying on the private industry to carry out a certification program that they cannot afford to administer. Most states are probably friendly to the private organic industry and are looking for ways to creatively forge a real partnership between the state and the private sector.[31]

It is possible that under the existing OFPA statutory scheme, administrative rules and procedures can be developed that will allow private certifying agents to function independently and autonomously within the parameters of the national organic certification program. Whether this can happen will depend, from the private industry's point of view, on the answers to the following fundamental legal questions.

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31 Not all states want to share certification responsibilities with private certifying agents. The committee report states as follows:

> Several state departments of agriculture contacted the committee and said that, while they supported organic certification, they preferred to continue using the system of private third-party certification organizations rather than to develop new state programs to undertake this responsibility. Other state departments of agriculture felt strongly that they would like to take over the certification program completely.

1. Can Private Certifying Agents Set Standards That Exceed Minimum Program Standards?

In Kathleen Merrigan's September 30, 1992 memorandum to the NOSB, she discussed the issue of private sector authority to set organic standards that exceed minimum program standards and concluded that OFPA allows private certifying agents to do so "through the authority vested in them in the farm plan provision of the law."[32] Ms. Merrigan made the following statement in her memorandum:

> Such [organic] farm plans provide certifying agents great latitude to construct restrictions or directives that farmers must meet in addition to the national and state standards. I have always contended that the farm plan is at the heart of the organic certification program. . . . It was through the farm plan that we expected the private certification entities to exercise their power and control over production practices. While the term standards is seldom used in this context, the farm plan does, in reality, set standards.[33]

Although Ms. Merrigan's opinion is consistent with the partnership Congress intended, no provision in 7 U.S.C. § 6513 authorizes or even mentions the authority of private certifying agents to set organic standards and requirements that exceed minimum program requirements.

Arguably, the silence of Section 6515 on this point means that setting additional organic standards that exceed minimum program standards is **not prohibited**, as long as the additional standards are not inconsistent with OFPA and do not discriminate against other certifying agents or organically certified products. The intent of Congress to preserve the role of the private sector in the certification process supports this interpretation because allowing the private sector to continue setting industry standards by developing better technology and testing methods is precisely the kind of thing Congress is interested in preserving. However, a close look at the language in the legislative history and the provisions in OFPA casts some doubt about the rights of private certifying agents to set organic standards that exceed minimum program standards.

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32 Memorandum to the NOSB from Kathleen Merrigan, dated September 30, 1992, page 3.

33 Id.

7 U.S.C. § 6507 authorizes states to set additional organic certification requirements that can exceed federal minimum organic standards and requirements. Section 6507 reads as follows:

> **Section 6507.--State Organic Certification Program.**
>
> (a) In General.
>
> The governing state official may prepare and submit a plan for the establishment of a state organic certification program to the Secretary for approval. A state organic certification program must meet the requirements of this chapter to be approved by the Secretary.
>
> (b) Additional Requirements.
>
> (1) Authority.
>
> A state organic certification program established under subsection (a) of this section may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of agricultural products that are to be sold or labeled as organically produced under this chapter that are contained in the program established by the Secretary.
>
> (2) Content.
>
> Any additional requirements established under paragraph (1) shall--
>
> (A) Further the purposes of this chapter;
>
> (B) Not be inconsistent with this chapter;
>
> (C) Not be discriminatory towards agricultural commodities organically produced in other states in accordance with this chapter; and
>
> (D) Not become effective until approved by the Secretary.

The fact that OFPA expressly authorizes states to set additional requirements but does not authorize private certifying agents to do the same is troubling. If the right to set additional re-

quirements is directly linked to the authority to implement an organic certification program, it becomes more difficult to argue that private certifying agents can set additional requirements because they clearly are not authorized to implement their own independent program.

Ms. Merrigan's analysis of this issue is an interesting approach because it focuses on the organic plan and the role of certifying agents in developing and negotiating that plan rather than the authority to implement a program. The crux of her argument is the need to tailor organic plans to meet site-specific environmental concerns, and she concludes that certifying agents have the authority to set organic standards that exceed minimum program standards if that is what is required to develop an effective organic plan for an individual farm. Although this approach begs the question of delegation of authority, it makes practical sense.[34] To make the certification program workable, certifying agents will need to be flexible and creative in developing specific organic plans. Arguably, this is exactly what Congress intended, and there is at least an implicit delegation of authority to certifying agents to set additional standards to accomplish this goal.

The second problem with Ms. Merrigan's approach concerns the underlying purpose of OFPA. The national organic certification program was established to address interstate commerce problems resulting from the fact that differing state laws (regulating the organic industry) and differing organic standards used by private certification organizations created confusion and uncertainty about products labeled as "organic." OFPA was passed to alleviate confusion and uncertainty by setting minimum organic standards that consumers can rely on. Allowing private certifying agents to set additional organic standards arguably reintroduces an element of uncertainty and potential confusion that could undermine the purpose of establishing minimum national organic standards in the first place. Competition between certifying agents using different standards theoretically could escalate into "standards wars" which could in turn lead to discriminatory practices and legal disputes.

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34 One problem with Ms. Merrigan's argument is the absence of statutory language that authorizes certifying agents to exceed minimum program standards. 7 U.S.C. § 6513(a) merely authorizes certifying agents to "determine if such [organic] plan meets the requirements of the programs." Nowhere, on its face, does Section 6513 expressly authorize certifying agents to set organic standards that would exceed program requirements.

However, this argument does not take into consideration the fact that the minimum program standards provide the threshold criteria needed to give consumers confidence that they are buying organically grown food. As long as consumers can rely on these threshold requirements, additional organic standards will not undermine consumer confidence. Furthermore, the provision in 7 U.S.C. § 6507(b)(2)(C) regarding discriminatory practices addresses the potential problem of standards wars. If the effect of the additional requirements is discriminatory, it is illegal.

Understanding that this issue is susceptible to legal dispute, we nevertheless conclude that **OFPA does not prohibit certifying agents from requiring organic producers to meet standards that exceed minimum program requirements.** We also agree that 7 U.S.C. § 6513 authorizes certifying agents to develop and monitor organic plans and gives certifying agents the latitude to fit the requirements of the organic plan to the specific needs of individual farming operations. If necessary, the organic standards used in the organic plan can exceed minimum program requirements.

Without this flexibility, OFPA would become a static process lacking the capacity to meet the changing and developing needs of a growing organic industry. However, given the fact that this issue is open to legal dispute, it is advisable to either (1) amend OFPA to expressly authorize certifying agents to require organic producers/handlers to meet organic plans that include standards which exceed minimum program requirements; or (2) grant certifying agents the general authority to develop and implement their own organic certification programs. We support the second option because it would establish a true partnership relationship between government and private industry, and it would allow private certification organizations to contribute their experience and expertise to the national organic certification program.

2. Can Private Certification Organizations Place Their Own Certification Labels on Certified Organic Products?

Although OFPA refers to organic labels in several different sections of the act, OFPA doesn't say very much about specific labeling requirements. Section 6505 simply requires organically labeled products to meet OFPA minimum organic standards and requirements.[35] Section 6505 also authorizes the Secretary (at

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35 7 U.S.C. § 6505(a)(1). Note, 7 U.S.C. § 6506(4) restates the general requirement that organically labeled products must meet OFPA certification standards and requirements.

his discretion) to use a USDA label to identify certified organic products.[36]

Section 6507, which authorizes states to establish state certification programs, contains a provision that allows state programs to establish additional requirements for products sold or labeled as organic.[37] Section 6511 authorizes the Secretary, state governing officials, and certifying agents to remove organic labels on products that fail to meet OFPA certification requirements.[38] Section 6511 also requires detailed record keeping on organically labeled products.[39] Finally, Section 6519 sets penalties for knowingly selling or labeling as organic products that do not meet OFPA certification requirements.[40]

Notably, none of these provisions in OFPA mention or refer to any requirements that an organic label must be affixed to products that are sold or otherwise held out to be organically produced; nor is there any provision in OFPA that prohibits the use of organic labels by certifying agents (state or private). However, it is obvious that someone has to label organically certified products, and it is logical to assume that the label must bear a USDA seal to assure the public that the product meets national organic certification program standards.

The language in Section 6505(a)(1)(A) implies that "persons" other than the Secretary are permitted to label organically certified products. Section 6505(a)(1)(A) states (emphasis added):

> (A) A person may sell or label an agricultural products as organically produced only if such product is produced and handled in accordance with this chapter,

The use of the word "person" instead of Secretary indicates that Congress intended to authorize persons other than the Secretary to place labels on organically certified products. The use of the word "may" indicates that the Secretary has the discretion to allow other persons to place labels on organically certified products. Based on the language used in Section 6505(a)(1)(A), it appears that this statutory provision authorizes the Secretary

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36 7 U.S.C. § 6505(a)(2).
37 7 U.S.C. § 6507(b)(1).
38 7 U.S.C. § 6511(c)(2).
39 7 U.S.C. § 6511(d).
40 7 U.S.C. § 6519(a); 7 U.S.C. § 6519(c)(1)(B).

to "permit" certified agents to place their own label on organically certified products.

7 U.S.C. § 6505(a)(2) states (emphasis added):

> (2) USDA Standards and Seal.
>
> A label affixed, or other market information provided, in accordance with paragraph (1), may indicate that the agricultural product meets Department of Agriculture standards for organic production and may incorporate the Department of Agriculture seal.

The language in Section 6505(a)(2) leads to the conclusion that persons other than the Secretary are allowed to affix organic labels to organically certified products because it implicitly refers to other such labels and gives the Secretary the option to "incorporate the Department of Agriculture seal" into such an existing label.

Based on the above analysis of the language used in these statutory provisions, we conclude there is **an implicit authorization in OFPA that affirmatively recognizes the rights of persons other than the Secretary to affix their own label on organically certified products.** Looking at the OFPA certification scheme as a whole to identify the "persons" referred to in Section 6505(a)(1), there are only two possible options. The other "persons" referred to in this section must be either state certification programs or accredited certifying agents because state governing officials and accredited certifying agents are the only entities other than the federal government responsible for administering certification programs. Since OFPA does not prohibit either state governing officials or certifying agents from using their own labels, we conclude that both state governing officials and certifying agents are allowed to do so.

Although the language used in the law supports our legal conclusion on the labeling issue, the legislative history of OFPA supports a very different conclusion. The committee report states the following:

> This legislation establishes a USDA 'organically produced' label--a USDA seal of approval for organic products. After September 1, 1992, no other label will be allowed that claims that a food is in any way organic or organically produced, with spec-

> ified exceptions regarding state labels and small farmers. This prohibition does not affect producers who claim that their product is produced without the use of pesticides as long as they make no direct claim that their producer is any way organic or organically produced.
>
> States may have a state organic label only if it is in addition to the USDA label and approved by the Secretary. It is also possible for USDA to allow for foreign produced and labeled organic products if USDA determines that such products are produced under standards equivalent to those of this legislation. In such cases, USDA would be expected to investigate the adequacy of foreign certification programs rather than the organically produced products imported into the United States.[41]

The language in the legislative history is very clear. The committee report states unequivocally that only one organic certification label--the USDA "organically produced" label--can be used on organically certified products after the effective date of the act.[42]

It is difficult if not impossible to reconcile the language in OFPA with the language in the committee report regarding organic certification labels. Clearly, to the extent that there is an inconsistency between the language used in OFPA and the legislative history, **OFPA is legally controlling.**[43]

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41 Legislative History S. Rep. No. 101-357, pages 292-93.

42 The committee report mentions three exceptions to this proposed rule:

1. States can place their own label on organic products produced within the state, but the label <u>must</u> be in addition to the USDA label.

2. Foreign-produced products can place their own label on organically certified foreign products. The USDA must verify that the foreign certification organization meets the requirements of OFPA.

3. Small farmers who fit under the small farmer exception of 7 U.S.C. § 6505(d) are exempt from the labeling requirement.

43 Although OFPA does appear to allow the Secretary to authorize certifying agents to use their own certification labels, keep

However, the statements made in the legislative history reflect a potential conflict between the fundamental purpose of OFPA and the rights of private certifying agents to use their own organic certification label. Many of the same arguments that were discussed in context of the authority of certifying agents to set standards that exceed minimum program standards also apply to this issue.[44] To avoid the possibility of future legal disputes over this issue, it would be advisable to amend OFPA to expressly authorize certifying agents (state and private) to use their own certification label in addition to the USDA label.

3. Do Accredited Certifying Agents Have a Statutory Right to Coexist With State Certifying Agents and Function Independently in States With State Programs?

The crucial issue underlying this question is the extent of state regulatory authority over certifying agents. I discussed the accreditation program in some detail on pages 10-15 of this memorandum, pointing out the inherent tension in the OFPA accreditation program resulting from the fact that state certifying agents and private certifying agents are potentially in competition with each other. Furthermore, because the accreditation program, as the mechanism for private sector participation, is critical to the partnership concept underlying the OFPA statutory scheme, the federal government should reserve exclusive authority to make accreditation program determinations to make sure private certifying agents are on equal footing with state certifying agents. Clarifying this point in the law is necessary to avoid encroachment on the role of the private sector by state programs that aggressively seek to administer and control the activities of certifying agents. This issue is already surfacing in some states.[45]

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in mind that the Secretary's authority is discretionary. The bottom line is the law will allow certifying agents to use their own certification labels if the Secretary decides to permit them to do so.

44 These arguments include the need for uniform labeling procedures that will alleviate consumer confusion and uncertainty and the link between the authority to implement a certification program and the authority to use an organic certification label.

45 A bill has recently been introduced in the Texas legislature to amend the state's "Organic Standards and Certification" law to allow the Texas organic certification program to fully regulate the activities of certifying agents. Tex. Agric. Code Ann. § 18.001 et seq.

These accreditation program issues are extremely important, and we recommend that the NOSB take a strong stance against the delegation of authority to the states to conduct the accreditation process. Furthermore, we recommend that the NOSB support an amendment to OFPA that would eliminate any participation by state governing officials of state programs in the accreditation process. If states are allowed to regulate the accreditation process, private certification agents will have virtually no independence in the OFPA certification process.

4. Who Will Bear the Costs of OFPA?

Organic producers and handlers as well as private certifying agents are justifiably nervous about the costs associated with the implementation of the national organic certification program. OFPA record-keeping requirements will substantially increase the cost of doing business for producers and handlers as well as certifying agents. Certification and accreditation fees are also an issue.

Although FLAG is not prepared to make specific recommendations regarding fees and other costs associated with stringent record-keeping requirements, we generally recommend a fee structure that allows the private marketplace to determine the amount of the fee charged by accredited certifying agents to perform the certification process. This is a significant issue for private certifying agents because it has a direct bearing on the issue of certifying agents' independence and autonomy.

FLAG also recommends that the costs of the national organic certification program be distributed broadly. Organic producers/handlers and private certifying organizations should not bear the brunt of these costs. If the private organic industry is forced to directly absorb these costs, the industry will be crippled and the purpose of OFPA will be frustrated by economic hardship.

Therefore, we recommend reasonable fee structures that will generate revenue to contribute to the cost of the national organic certification program, but we also recommend direct government appropriations to assist with the start-up costs and maintain the national organic certification program. We feel that direct appropriations are appropriate because OFPA is a consumer protection law, and therefore it is appropriate to distribute the cost of the program amongst consumers through government appropriations.

The OFPA Appeals System

Crafting an appeals system for the OFPA scheme will be a difficult and controversial task if it is done from scratch. Because the OFPA certification process allows the federal government, state government, and private certifying agents to make OFPA program determinations, there are unusual procedural and jurisdictional issues that need to be addressed. The two most critical appeal issues are the following:

1. The appeals process must be conducted on the federal level, at least in the final review stage, because the federal government is ultimately responsible for all of the decisions made under the national organic certification program, and there needs to be uniformity and equal treatment of appellants in the appeals process. Consequently, under <u>no circumstances</u> should state programs be given final authority in the administrative review process.

2. The reviewing authority in the USDA appeals process <u>must be independent</u> and impartial to assure a fair hearing. Therefore, the USDA appeals review process should not be conducted by the USDA agency responsible for making final determinations under the national organic certification program.

Congress and the new USDA administration are currently planning a comprehensive reorganization of the USDA that will likely include a new "independent USDA appeals agency" that will be responsible for conducting the final administrative review of determinations made by various USDA agencies. To avoid the tedious process of designing a specific OFPA appeals system, FLAG strongly recommends the inclusion of the OFPA appeals process in the USDA restructuring scheme and recommends that an independent USDA agency be responsible for conducting OFPA appeals.

I recently testified in congressional hearings concerning USDA reorganization and the USDA appeals process and mentioned the OFPA appeals issue in that testimony. I have attached a copy of that testimony, as Exhibit 1, to this memorandum for your review. It explains in some detail the issues associated with USDA administrative appeals and the advantages of an independent USDA appeals agency.

CONCLUSION

FLAG thanks the NOSB for providing an opportunity to voice the concerns of our clients. We will be consulting with SAWG and other members of the private organic industry to develop a detailed list of regulatory and legislative recommendations regarding the implementation of OFPA, and we will provide that list to the NOSB when it is prepared. If the NOSB, or any individual members of the NOSB, have any questions or issues concerning this memorandum, please do not hesitate to contact me directly.

/tr
TJS007
Attachment