

Accreditation Recommendations -- 1998

FINAL RECOMMENDATION OF THE NOSB ON ISSUE PAPER #3 "Termination of Certification by Private Certifiers"

The goal stated in the Issue Paper is very much in line with the intent of OFPA to create a public/private partnership, and we support that goal. However, the three options presented do not specifically address the goal. The Board recognizes that many present certification agencies consider the shift of the authority to deny certification from the local certifier to the USDA a great concern.

On the other hand the Board also recognizes that if the "teeth" of federal enforcement could be added to the agreements between certifiers and growers than the consequences of failure to adhere to program standards could be swift and decisive. Although the options presented indicate that the process of decertification will be relatively long, if the ability to remove the organic label from questionable commodities and products is quick and forceful the system could work.

We would support a combination of the three options presented if the specific guidelines are based on systems generally used in the industry now. Present systems equate the stopping of sale of products and commodities labeled organic with decertification. If sales of product and commodities with an organic label not meeting standards could be prevented by another method, a longer process to decertify a producer could be acceptable.

Some specific issues represent a major shift from the way certifiers do business now and in order that the goal of implementation of OFPA be at the local level the enforcement procedure should address the following aims;

1. Since OFPA requires an annual inspection, the Rule should include an annual renewal of certification based on that inspection so that the authority of the local certifier to verify compliance with the rule has the force of law. It is understood that the producer has the right to appeal any certifier's decision under due process.
2. Procedure must include the ability to quickly remove the organic label after determination of noncompliance. The only fast way to prevent sale of mislabeled products or commodities is through the local county or state departments. Of course, products or commodities may still be sold through conventional channels without the organic label.
3. If a case is under review, and due process served, products and commodities with organic labels should be joined from sale, as recommended by the certification agent.
4. Enforcement options need to be published as part of the proposed rule or at the same time. The NOSB will work with the USDA on development of enforcement procedure.

Consensus could not be reached, but there are two other issues that the Board considers very important. These will be considered at their February meeting.

The first of these is who determines whether or not there is enough evidence of a violation to stop the use of the organic label on a product or even remove certification. Most of the presently operating certification agencies feel that authority should be kept with the local certification agency rather than being at the USDA. Cases would only go the federal level on appeal.

The other issue concerns liability of the local certifying agencies, and whether or not there should be a need to post bonds to hold the Secretary harmless.