If the U.S. Department of Agriculture (USDA) has its way, food now known as "organically grown" may be genetically engineered, fertilized with sewage sludge, and/or irradiated with nuclear wastes. On December 16, 1997, USDA unveiled its proposed rule to implement the Organic Foods Production Act of 1990 (OFPA).[2] USDA’s proposed rule would legalize practices that are presently unthinkable for organic farmers. All across the country, organic farmers and advocates for organic foods have risen up in protest against USDA’s proposal. If USDA prevails, the labeling of "organically grown" foods will become meaningless and consumers will no longer have confidence in the organic food industry. Citizens have until May 1, 1998, to comment on USDA’s proposed rule.[3]

The practice of producing food organically began with farmers who wanted to farm in harmony with nature instead of subduing nature by the use of toxic chemical pesticides and fertilizers. For various reasons, consumers want to buy food grown by these more natural methods. Those consumers created the need to identify such foods in the market place. Private, independent, third-party certifiers emerged to provide assurance that the "organic" label actually means something. Third-party certifiers inspect farms and processing facilities to insure compliance with organic standards. These certifiers also establish audit trails so that consumer products can be traced back to farmers’ fields. It is this third-party certification that gives the words "organically grown" their meaning. (For an example of organic standards, see the world wide web site of the California Certified Organic Farmers at http://www.ccof.org/certstandccof.htm.)

As organic foods became more popular and commanded a premium price, some growers and manufacturers labeled their products "organic" even though they were not produced and processed in keeping with organic standards. This fraudulent use of the "organic" label led the organic food industry, organic farmers, consumer groups, and environmentalists to ask for government regulation.

USDA’s proposed rule, however, will not provide the needed assurance. Besides failing to prohibit sewage sludge, irradiation and genetically engineered organisms in organic farming and processing, the rule also:

** Fails to specifically prohibit factory-style farms from being certified organic

** Fails to strictly forbid animal cannibalism in organically produced animals (believed to be the leading cause of transmissible spongiform encephalopathy, like "mad cow" disease).

** Fails to prohibit the use of other materials in the production and processing of organic food which have long been considered unsafe or inappropriate by the international organic community, such as piperonyl butoxide, arsenic, mono-and di-glycerides, etc.

The Organic Foods Production Act of 1990 (OFPA) required the Secretary of Agriculture to establish a 15-member National Organic Standards Board (NOSB) which the law empowered to make recommendations for establishing the national organic standard. The law specifically gave the NOSB authority to establish the list of allowable materials that could be used in organic farming and processing. Importantly, the law restrains the Secretary from adding materials to the list. Since USDA’s proposed rule adds materials to the list despite this prohibition, many see this as a deliberate attempt on the part of USDA to challenge the authority of the NOSB, a citizen board.

As troubling as all of these issues are, the rule proposes other regulations that may have even more sweeping implications. These regulations could affect every American, not just those interested in the purity of organic food. The regulations, as proposed, would prevent producers and manufacturers from identifying products in the store based on production practices, thus ending the consumer's ability to "boycott" or "buycott" food products with their shopping dollars to support environmental goals. The proposed rule gives some examples of the kind of labels that would be prohibited. They include: "produced without synthetic pesticides", "produced without synthetic fertilizers", "raised without synthetic chemicals" "pesticide-free farm", "no drugs or growth hormones used", "raised without antibiotics", "raised without hormones", "no growth stimulants administered", "ecologically produced", "sustainably harvested", and "humanely raised". In other words the rule, as proposed, could end all eco-labeling, thus destroying an important market-based tool for environmental protection.[4]

If they became law, these broad, prohibitory regulations would force many U.S. companies and grower associations to refrain from marketing eco-labelled products that they currently produce. Several examples come to mind. Coleman’s Natural Beef, which produces and markets a growth-hormone-free, antibiotic-free beef product. Numerous companies and grower associations that are presently marketing products produced by reduced-pesticide practices. Perhaps even companies using the "dolphin safe" and "SmartWood" labels to differentiate sustainable fishing and forestry products would be in jeopardy.

Additionally, the proposed rule would prohibit private organic certification companies from certifying or labeling products that distinguish "any farming or handling requirements other than those provided for" in the government’s regulations. (Sec. 205.301) This means that if the government insists on allowing sewage sludge, irradiation, genetically engineered organisms, piperonyl butoxide and other similar materials then no one can certify any product that is produced or processed WITHOUT those technologies.

The proposed rule takes the power of preference away from consumers, limits the market opportunities of producers, restricts commercial free speech, and leaves chemically sensitive and allergic people without any reliable choices in the marketplace to protect them from possible harm.

Ironically, the proposed rule does not place such restrictions on imported products or on foreign certifiers. The rule simply requires that imported products "at least" meet the requirements of the U.S. organic regulation. In effect, then, the regulations would allow foreign certifiers to certify that foods were produced without sewage sludge, etc. for import into the U.S., but U.S. certifiers could not certify U.S. products to that same standard for U.S. consumers.

This same regulation would also force international certifiers doing business in the United States, who want to uphold the standards they have become identified with over the past few decades, to move their base of operation out of the U.S. to retain the value of their trademarks. Other countries not only allow private certifiers to uphold and market higher standards than those required by government regulation, but some actively encourage it.

Alternatively, U.S. certifiers apparently could certify products to a higher standard if those products were destined for export, but could not certify those same products for the U.S. domestic market. This potentially creates a preposterous scenario in which U.S. certifiers could certify products to meet export standards, see those products sold into foreign markets from which they could then be sold back into the U.S., yet it would be illegal to market those same products directly in the U.S.

In short, this proposed rule does not serve the interests of either American producers or consumers. This raises an interesting question. Who would benefit from this rule? It would be a boon for the conventional agribusiness food system which has, for years, sought to eliminate any differentiation in the marketplace that threatens their market share. This rule would simultaneously erase most of the major distinctions between organic and conventional food, make it illegal to use any other eco-labels, and prevent private certifiers from certifying to any standard other than the one
proposed by USDA. One could hardly imagine a single piece of regulation that could bring more joy and comfort to the agribusiness food industry.

Given these disturbing developments, citizens need to take steps to protect their shopping and marketing rights. There are several things we can do. First, everyone can inform themselves by getting additional information about the proposed rule from various websites. Several are listed below.[2,5]

Second, every citizen can submit comments to USDA to voice their concerns about this rule. Information on how to comment and how to gain access to the rule is also noted below.[2,3]

Third, we need to take steps to protect citizen rights to “boycott” and “buycott” foods so that we can use our shopping dollars to protect the environment. Every citizen can support the efforts of consumer groups like Consumer's Union, Mothers and Others, Greenpeace, Food & Water, or any number of other consumer and environmental groups that are fighting to preserve these rights. And everyone can contact their congressional representatives urging them to support the right to label products based on point of origin or production practices.

Some private organic certifiers have already decided that they will not certify products to a standard like the one proposed in the USDA rule. We need to encourage USDA to establish a strong standard for organic food – a rule that supports farmers who are producing food ecologically and customers who choose to buy and eat that food. The existing proposal only supports agribusiness -- the same industries that have brought you pesticides and genetically engineered crops. -

--by Frederick Kirschenmann[1]

[1] For the past 22 years, Frederick Kirschenmann has operated a 3100-acre organic farm in North Dakota. He serves on the board of the World Sustainable Agriculture Society and is president of the board of the Henry A. Wallace Institute. He was a founding member of the Northern Plains Sustainable Agriculture Society. He has a Ph.D. in philosophy from the University of Chicago.

[2] The proposed rule can be downloaded from http://www.usda.gov/ams/nop on the world wide web, or you can purchase a paper copy from the FEDERAL REGISTER for $8.00 by calling 202-512-1800 in Washington, D.C. The original comment period was slated to end March 16, but has now been extended to May 1.

[3] Comments to USDA on the proposed organic rule should be submitted by May 1 to: Eileen S. Stommes, Deputy Administrator, USDA-AMS-TM-NOP, Room 4007-S, AG Stop 0275, P.O. Box 96456, Washington, D.C. 20090-6456. Comments can also be faxed to 202-690-4632, or E-mailed via the National Organic Program home page at http://www.usda.gov/ams/nop. Anyone filing comments by fax or E-mail should check to make sure their comments have been received and duly noted.

[4] For a brief but thorough statement on opportunities to protect the environment through consumer purchasing power with eco-labels, see Mark Ritchie, "Purchasing Power: Consumer Choices and Environmental Protection," December 3, 1997, an unpublished paper available by request. Send a request via E-mail to peter@rachel.org or via fax to (410) 263-8944.