



## Editorial Memorandum

TO: Editorial Writers, Columnists  
FROM: The Center for Progressive Regulation  
RE: Appropriations Rider Will Undercut Organic Foods Industry  
DATE: March 10, 2003

In recent years it has become common practice for Members of Congress, with the consent of congressional leaders, to insert a variety of appropriations “riders” into must-pass spending bills. By definition, these measures are added outside the normal process of legislating: they are attached not as the result of hearings, markups, committee votes, and floor debate, but rather by individual or small groups of Members of Congress during the final stages of conference committee negotiations between the Senate and the House. The resulting bills, often laden with a variety of amendments, are then returned to each chamber for up or down votes.

Appropriations measures are often enormous and entirely too complex for even well-staffed Members of Congress to absorb in their entirety. As a result, Members rely greatly on the leadership for information about the bills’ content. In addition, because the stakes are so high with up-or-down votes on appropriations bills – if they fail, one or several departments of government might have to shut down – Members are sometimes forced to accept provisions to which they vehemently object.

Such was the case this past February, when Congress adopted the FY 2003 Omnibus Appropriations bill. At the behest of Fieldale Farms, a Georgia chicken farming operation, Rep. Nathan Deal (R-Georgia), with the backing of Speaker of the House Denny Hastert (R-Illinois), inserted a one-paragraph provision into the bill at the eleventh hour that would permit farmers to label their meat, eggs and milk “organic” even if they raise their animals on conventional – that is, decidedly not organic – feed. Under the provision, if organic feed prices are twice the cost of conventional feed, then the Department of Agriculture is required to apply the organic label.

The provision is absurd on its face. No consumer is required to buy organic food. But those who do should be able to rely on a government label. Instead, the provision adopted by a majority of both houses of Congress and signed into law by the President, mandates that the government apply its imprimatur to a marketing misrepresentation.

Just as troubling, the provision, if left to stand, will undercut consumer confidence in the organic food market, just as it beginning to take off. According to the Department of Agriculture, citing the Organic Trade Association, retail sales of organic food in the

United States grew from \$1 billion in 1990 to \$5.5 billion in 1998. The adoption of federal standards for the “organic” label, fully implemented just last autumn, gave consumers added reason for confidence that these premium products are in fact as healthy as they claim.

The provision also offers an unusually telling insight into the thinking of its sponsors. No rational argument can be made that the food raised on chemical- and antibiotic-laced feed can fairly be described as “organic.” Sponsors see the organic labeling system not as an aid to consumers, but merely as a marketing vehicle for the food industry. They see nothing wrong with permitting the food industry to mislabel products, and worse, have arranged for the government to conspire in the fiction.

Sens. Patrick Leahy (D-Vermont) and Olympia Snow (R-Maine) have introduced the Organic Restoration Act, S 457, to repeal the provision. In the House, Reps. Sam Farr (D-California) and Ron Kind (D-Wisconsin) have offered a similar bill, H.R.955. And, in the face of public pressure, the Bush Administration has belatedly announced its support for a repeal. Whether a bill actually passes and is signed into law, however, remains to be seen.

A larger lesson may also be drawn from this incident. Appropriations riders are a miserable way for the government to do the people’s business. They are intended to be adopted with little or no public scrutiny. In this case, many Members of Congress were unaware that they were adopting the provision. By contrast, Congress enacted the Organic Food Production Act of 1990 after extended public debate over the need for and content of a national certification program for organic food. The Department of Agriculture then spent ten years devising regulations to implement the law, during which time it received more than 40,000 public comments. The outcome of this extensive deliberative process was a set of regulations that the organic food community and most of the food industry could live with.

The best way to police appropriations riders is for congressional leaders to exercise their authority responsibly. Speaker Hastert and Senate Majority Leader Frist rightly bear the burden of seeing to it that such folly is not repeated.

We hope you’ll be able to find space for this subject on your editorial pages. For more information, or to arrange an interview with Center for Progressive Regulation Chairman Thomas McGarity, please contact Matthew Freeman in our Media Office at 301-762-8980 or by email at [CPRMedia@Earthlink.net](mailto:CPRMedia@Earthlink.net).

*Founded in 2002, the Center for Progressive Regulation is a nonprofit research and educational organization of university-affiliated academics with expertise in the legal, economic, and scientific issues related to regulation of health, safety, and the environment. CPR supports regulatory action to protect health, safety, and the environment, and rejects the conservative view that government’s only function is to increase the economic efficiency of private markets. Through research and commentary, CPR seeks to inform policy debates, critique anti-regulatory research, enhance public understanding of the issues, and open the regulatory process to public scrutiny. More information is available at CPR’s website: [www.progressiveregulation.org](http://www.progressiveregulation.org).*