

Reckless Riders *by Thomas O. McGarity*

Hidden in the fine print of the massive Appropriations Bill that passed both houses of Congress last week is a tiny “rider” that has the potential to undermine public confidence in the booming organic foods industry. One short sentence, tucked into a 3,000-page bill, could do grave harm to the small but growing market for organic food. The provision requires the Department of Agriculture to certify meat as “organic” even if the meat producer does not comply with requirements that it use only organically grown feed. The provision will remain in effect until the Department determines that such feed is available at no more than twice the cost of conventionally grown, and often chemical-laced, feed.

Consumers don’t have to buy organic meat. But when they do, they should be confident that it is in fact organic. Congress enacted the current uniform labeling standards so that consumers could rely on the “organic” label. The rider willfully betrays consumers who depend on the labeling system.

Why would Congress tell the Department charged with protecting the integrity of the fledgling organic certification system to disregard its own requirements? Sadly, the answer lies in a poorly understood weakness in the legislative process that becomes especially acute when the same party controls both houses of Congress.

An appropriations rider can allow narrow economic interests to circumvent the normal deliberative process of legislating and regulating. In this case, a law that Congress enacted in 1990 says that meat may be certified as “organic” only if the animals have been fed organically certified feed that is free of pesticides and other chemicals. The rider passed last week leaves that law in place but says that the Department may not spend any appropriated funds requiring meat producers to meet that requirement. The rider thus invites meat producers to violate the law knowing that the government is powerless to implement it.

Congress enacted the Organic Food Production Act of 1990 after extended public debates 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.

Then, in one deft maneuver, Rep. Nathan Deal (R-Ga.) undid an important aspect of the carefully crafted certification process and put the entire program at risk, according to reports, all to benefit a single company unhappy with the requirement.

If Representative Deal’s constituent can place an “organic” label on poultry raised on pesticide-treated corn, then other producers of organic poultry will face strong competitive pressure to follow suit. And if cost can justify allowing pesticide-treated

corn to be fed to poultry bearing the “organic” label, then why not pass another rider allowing cost to justify using pesticide-treated corn in “organic” corn flakes?

The last extensive attempt by narrow economic interests to subvert open public policymaking through appropriations riders occurred in 1995, when the Republican party last gained control of both Houses of Congress. At the insistence of majority whip Tom DeLay, Congress added 17 anti-environmental riders to an appropriations bill. President Bill Clinton, however, vetoed that bill, and the federal government suffered two shutdowns before Congress passed an appropriations bill that deleted the most egregious riders.

This time, anti-consumer riders, like the organic feed provision, and a number of anti-environmental riders are likely to sail through unimpeded. All indications are that the Bush Administration is about as likely to come to the aid of organic food lovers and environmentalists as it is to lend a hand to Saddam Hussein.

The ultimate responsibility for reckless riders rests on the shoulders of the House and Senate leadership. Representative Deal could not have inserted the organic food rider without the consent of Speaker of the House J. Denny Hastert. Congressional leaders have a special duty to all Americans to safeguard the legislative process against attempts by narrow economic interests to subvert it through the appropriations process. The public has every right to hold them accountable when they shirk that duty.

In this instance the system has badly failed. Congress turned a labeling system designed to help consumers into a device by which marketers are invited to deceive them, all with the government’s imprimatur.

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