

**UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE**

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MASSACHUSETTS INDEPENDENT  
CERTIFICATION, INC.,

Petitioner.

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OFPA Docket No. 03-0001

**APPEAL PETITION**

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Petitioner Massachusetts Independent Certification, Inc. (“MICI”), submits this appeal petition to the designated judicial officer, pursuant to 7 C.F.R. §1.145, Rules of Practice Governing Formal Adjudicative Administrative Proceedings. In support of its petition, MICI alleges as follows:

1. The appeal regulations enacted for the National Organic Program are not in accordance with law because they are in conflict with the requirements of the Organic Food Production Act of 1990.

2. The Judicial Officer should interpret the regulations in a way that assumes the Secretary has complied with her statutory and constitutional duty, and exercise subject matter jurisdiction over this appeal petition.

3. The Administrator’s decision that is the underlying subject of this appeal petition was arbitrary and capricious, unsupported by substantial evidence, and not in accordance with law.

WHEREFORE, MICI petitions the designated judicial officer for the following relief:

1. Reversal of all findings and conclusions of the ALJ;
2. An order reversing the Administrator's decision of October 25, 2002, or remand to the ALJ for a hearing;
3. An order finding that 7 C.F.R. § 205.681(a)(1) is inconsistent with the Organic Food Production Act;
4. An order directing the Agricultural Marketing Service to engage in formal rule-making to result in final organic appeals regulations consistent with the requirements of OFPA by a date no later than eight months after the date of the Judicial Officer's decision; and
5. For all other relief just under the circumstances.

Dated: December 11, 2003.

Respectfully submitted,

s/ Jill E. Krueger

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Jill E. Krueger

Susan E. Stokes

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ATTORNEYS FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of December, 2003, an original and three copies of the foregoing appeal petition were served by Federal Express upon the Hearing Clerk of the Office of Administrative Law Judge:

Joyce A. Dawson, Hearing Clerk  
Office of Administrative Law Judges  
United States Department of Agriculture  
Room 1081, South Building  
Washington, D.C. 20250-9202

s/ Jill E. Krueger  
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