



**ORGANIC FARMERS
ASSOCIATION**



2021 PRIORITIES

The mission of the Organic Farmers Association is to provide a unified national voice for domestic certified organic producers. OFA is building a farmer-led national organic farmer movement and national policy platform by developing and advocating for policies that benefit organic farmers; strengthening and supporting the capacity of organic farmers and farm organizations; and supporting collaboration and leadership among state, regional and national organic farmer organizations. OFA is led and controlled by certified organic farmers. Only certified organic farmers have a vote on our leadership and in our policy making process.

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Restore Organic Certification Cost Share Program Reimbursement

The federal government has historically reimbursed up to 75% of organic certification fees paid by organic farms and businesses, with a maximum reimbursement of \$750 per certification scope (crops, livestock or handling) per operation. In August 2020, USDA's Farm Services Agency (FSA) announced that reimbursement rates for 2020 would be cut to 50 percent, up to a maximum of \$500 per scope. This came as a surprise to the organic sector and leaves organic operations with an unplanned expense. The cost share program is particularly important to small and mid-sized organic farms, and those who are just starting out with certification.

The 2018 Farm Bill provided new funding for the organic certification cost share program. FSA provided inaccurate reports of carryover balances to Congress as the funding provided in the 2018 Farm Bill was being considered, resulting in a shortfall for the program for the rest of the years of the Farm Bill cycle. FSA estimates that \$9 million in supplemental funding is needed to fill the funding gap for the program through the end of fiscal year 2023. However, FSA staff have also acknowledged that the \$9 million figure does not include any growth in the number of certified operations eligible for assistance under the program, which we believe is shortsighted.

We urge Congress to:

- provide \$12 million in extra funding for the Organic Certification Cost Share Program in the Fiscal Year 2022 appropriations bill, to be available until expended, to close the funding gap;
- include strong report language requiring FSA to reimburse eligible organic operations at the full authorized reimbursement rates, and to report back to Congress with a plan to ensure the accounting problems associated with FSA's administration of OCCSP do not occur again.



USDA Rulemaking to Protect Organic Integrity

The integrity of the organic label continues to be organic farmers' top priority. Consumers expect the organic label to be the gold standard. If the U.S. Department of Agriculture's National Organic Program (NOP) does not adequately enforce the organic standards, consumers will lose trust in the integrity of the organic label. The organic market has grown so rapidly that the NOP's enforcement capacity has not kept up with a \$50 billion industry with global supply chains.

Preventing Fraud

Too many times, shipments of fraudulent organic grains have made it into the U.S. organic market, hurting both organic farmers and consumers. Organic farmers need full and consistent enforcement of the USDA organic standards and increased capacity at the NOP to detect and prevent fraud in organic supply chains.

- The NOP must complete and implement the final rule on "Strengthening Organic Enforcement" to better track imported organic products, as required by the 2018 Farm Bill. (Proposed rule comment period completed in fall 2020.)
- As well as putting the rule into effect as soon as possible, the NOP must continue to coordinate with other USDA agencies as well as U.S. Customs and Border Protection to increase awareness of organic commodities that are likely to be imported (and the potential for fraud) and to leverage other agencies' inspection resources at ports of entry.



Organic Dairy

Organic dairy farmers have not escaped the economic crisis faced by dairy farmers across the country. A driving force behind the problems in the organic dairy industry is a lack of enforcement of the organic standards by the NOP. The lack of enforcement has allowed large-scale dairies to undermine organic farms that comply with the intent of the standards on access to pasture and origin of livestock.

- The NOP must finalize an enforceable rule on Origin of Livestock as soon as possible. This rule must close loopholes in the organic regulations that are being exploited by large-scale dairy operations that continuously cycle animals in and out of organic production. This rule is long overdue and is necessary for consistent enforcement to create a level playing field for all organic dairy producers.

Animal Welfare

The Organic Livestock and Poultry Practices (OLPP) rule is another long-overdue measure to strengthen the organic standards, which was delayed and ultimately withdrawn by the Trump Administration. The OLPP final rule would allow the NOP to consistently enforce stronger animal welfare standards on organic farms and close loopholes being taken advantage of by some large operations. The rule was discussed and vetted in the organic community for more than a decade and has widespread support. Animal welfare is an issue of critical importance to organic consumers, and these standards must be tightened to retain consumers' confidence in the organic label.

- The NOP must reinstate the final OLPP rule as quickly as possible.



Organic as a Climate Solution

Organic farming can play a critical role in fighting climate change. Organic regulations require certified organic farmers to implement beneficial carbon sequestration practices by eliminating chemical soil disturbance through the prohibition of synthetic fertilizers, herbicides, and other crop protection chemicals. The standards require organic farmers to adopt tillage and cultivation practices that “maintain or improve” soil condition. But strengthening several organic standards would make organic even more meaningful as a climate-friendly practice. These include:

- Prioritizing enforcement of the pasture standard for large-scale dairies.
- Reinstating and implementing the OLPP rule for livestock operations to require livestock operations to provide meaningful access to pasture.
- Prohibiting the certification of hydroponic operations as organic. For organic agriculture, to maximize its potential as climate-friendly agriculture, soil must be recognized as the cornerstone of organic production.

Additionally, we urge Congress to prioritize research to document how organic practices can maximize carbon sequestration, as well as documenting the multiple benefits created by organic practices.



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Restore Organic Certification Cost Share Program Reimbursement Level

Annual inspection and certification are a requirement for all organic operations, and the inspection and certification process serves as a core component in maintaining the integrity of the USDA organic label. The federal government has historically reimbursed up to 75 percent of organic certification fees paid by organic farms and businesses, with a maximum reimbursement of \$750 per certification scope (crops, livestock or handling) per operation.

Until August 2016, the Organic Certification Cost Share Program (OCCSP) was administered by the USDA's National Organic Program. At that time, the Secretary delegated the authority to administer the OCCSP to USDA's Farm Service Agency (FSA). In August 2020, FSA announced that reimbursement rates for 2020 certification costs would be cut to 50 percent of the certified organic operation's eligible expenses, up to a maximum of \$500 per scope.

This action by FSA came as a surprise to the organic sector. It leaves organic operations – who had been planning on being reimbursed for their certification costs at the same level as previous years – burdened with an unplanned expense, in the midst of a period of higher costs and disrupted markets caused by the pandemic. The cost share program is particularly important to small and mid-sized organic farms, and those who are just starting out with organic certification.

The 2018 Farm Bill provided new funding for the organic certification cost share program, and written commitments made by USDA to use pre-2018 Farm Bill carryover balances from the program to fund current program needs were used to calculate the funding provided in the 2018 Farm Bill. But FSA's announcement in August, after months of delay in releasing the funds to the state agencies and county FSA offices that administer the program, revealed that the agency has struggled to track program spending. This led the agency to provide inaccurate reports of the carryover balances to Congress as the funding provided in the 2018 Farm Bill was being considered, and has resulted in a shortfall for the program for the rest of the years of the Farm Bill cycle.

FSA has communicated to Congress and organic stakeholders that \$9 million in supplemental funding is needed to fill the funding gap for the program, at the full authorized reimbursement levels, through the end of the 2018 Farm Bill cycle (end of fiscal year 2023). However, FSA staff have also acknowledged that the \$9 million figure does not include any growth in the number

of certified operations eligible for assistance under the program, which we believe is shortsighted.

Therefore, we are requesting that Congress:

- **provide \$12 million in extra funding for the Organic Certification Cost Share Program in the Fiscal Year 2022 appropriations bill, to be available until expended, to close the funding gap; and that,**
- **the funding be accompanied by strong report language requiring FSA to reimburse eligible organic operations at the full authorized reimbursement rates, and to report back to Congress with a plan to ensure the accounting problems associated with FSA's administration of OCCSP do not occur again.**

We urge you to include this additional funding for the organic certification cost share program in the appropriations process to ensure that organic farms and businesses can continue to count on this long-standing program to help offset their certification costs.

For More Information:

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An aerial photograph of a farmer wearing a straw hat and a blue and white checkered shirt, kneeling in a field of green plants. The farmer is holding a camera or a small device. The field is divided into rows of plants, and the soil between the rows is dark and cracked. The lighting suggests it's either early morning or late afternoon, with long shadows cast across the field.

The Fight Against Fraud

Recent Scandals Shake Consumer Confidence in Organics.
So What Can We Do About It?

The organic market has enjoyed decades of growth, reaching \$55 billion annually in U.S. sales in 2019. It is one of few labels that has a strong meaning and a system of federal oversight to provide a consistent definition from farmers markets to grocery store aisles across the country. However, trust in the label has been shaken by recent high-profile, mass-volume fraudulent sales with malicious intent — a tragedy for the both the farmers and consumers who have relied on the organic label for their livelihood and as an important choice of food and fiber for themselves and their families. Organic sales are booming, but unfortunately it seems, so is fraud.

It is no surprise that those willing to make a fast buck would seek to relabel conventional crops as organic, which fetch a higher price. Numerous cases of organic fraud have come to light in recent years, mostly centered on organic commodity crops like corn and soybeans, although produce and other sectors are not immune to phony organic products. Both domestic and imported grains have been found fraudulent. The scale and elaborate nature of the fraud over the past decade spans hundreds of truckloads, numerous large ocean-going vessels, and hundreds of millions of dollars.

The vast majority of organic farmers are not fraudulent and view their organic certification as an achievement. There are many organic certificates framed on the wall next to the family pictures of children, graduations and weddings. Organic farming typically relies on more management, planning, and labor than growing the same crops conventionally. Maintaining documentation on activities, inputs, and rotations is necessary under the law. Sharing this information with certifiers and inspectors adds an extra burden, somewhat compensated by the higher organic price received in the marketplace. Both anger and sadness are felt by the organic community when nonorganic products are scammed as organic. Real organic producers have experienced large economic losses due to their legitimate crops being replaced by

“ORGANIC INTEGRITY FROM FARM TO TABLE, CONSUMERS TRUST THE ORGANIC LABEL”

— SLOGAN USED BY THE USDA’S NATIONAL ORGANIC PROGRAM

questionable grain at cheaper prices. Many share the sentiment of Dave Campbell, longtime organic farmer from Illinois; “I have been positive about the organic marketplace for the many decades I have been growing organic corn and soybeans, but the recent fraudulent organic sales by both domestic and foreign operators has lowered my optimism.”

Farmers and businesses had provided numerous tips to certifiers and to the National Organic Program (NOP) illustrating both domestic and import fraud activities. Did the tips lead the NOP to require enhanced oversight and subsequent enforcement actions against these operations? Why has it been so difficult for the National Organic Program and the USDA to find and stop this fraud? To many organic farmers, it does not appear the USDA has made protection of the organic label a top priority.

FRAUD IN THE AMERICAN HEARTLAND

The scale of one recent (2019) case of domestic fraud is astonishing. According to the Department of Justice in the Northern District of Iowa, a well-respected man in his community, Randy Constant, admitted to \$142,433,475 of “organic” grain sales, the vast majority of which were fraudulent. During the years of 2010 to 2017, he sold over 11,500,000 bushels of grain (this volume is estimated to fill 3,600 rail cars or 14,375 semi-trailers), with more than 90% of it falsely marketed as organic.

How did this happen? David Glasgow, Associate Deputy Administrator of the National Organic Program, stated “people who commit this kind of fraud are often well-known and trusted in their community. It is hard for good people to believe bad things about someone they know, which can allow the criminal activity to go unseen for years.”

Glasgow preferred not to share the various methods Constant used to gather and market his phony organic grains as he does not want to provide “a roadmap for future offenders.” Members of the organic community did submit complaints to the NOP about Constant over the years. There was at least one complaint against Constant submitted to the NOP from a competitor who was concerned by the volume of sales moving through Constant’s Ossian, Iowa-based brokerage, Jericho Solutions. His lower-than-standard prices gained him buyers, drove down prices and stole sales from his legitimate organic competitors. Another complaint stated organic soybeans sold by Constant in 2007 were grown from genetically modified seed (prohibited in organic). Glasgow would not comment on these complaints stating that the USDA, like all government agencies, will not discuss actions on specific complaints until they have been settled. However, Glasgow did confirm the “NOP has worked with other enforcement agencies with international reach to develop tools that help us identify higher risk activities in the marketplace and rapidly increase surveillance, build the case, and take action.”

In some cases, industrial grain commodities were sold as organic.



As a result of increasing pressure from the organic community, Glasgow explained the USDA has strengthened “the partnership between the NOP and other law enforcement agencies including the USDA’s Office of the Inspector General, Food Safety Inspection Service, and the Animal and Plant Inspection Service; as well as the Justice Department, Federal Trade Commission, and Customs and Border Protection.” These agencies have deeper resources for investigation and the ability to charge an individual with criminal activity, an authority the NOP does not have. The NOP fines for mislabeling a product as organic are not as strong as criminal penalties that can be brought by these other agencies. The NOP explained that, “fining someone who is facing prison time and multimillion-dollar asset forfeiture is a much steeper penalty than NOP’s authority to issue a civil penalty.” Furthermore, the NOP does not have the authority to “stop sale” of fraudulent products.

The U.S. justice system requires strong evidence to bring a case to criminal court. In the Constant case, even though there was covert surveillance of the illegal activities, until the government was able to get testimony of witnesses who were involved in the movement and false labeling of the organic grain, and they had a concrete false communication for a wire fraud charge, there was not a strong enough criminal case to bring Randy Constant to justice for his substantial crimes.

SENTENCING

Three additional farmers from Overton, Nebraska were also found guilty in the Constant crime. They admitted in court that they produced nonorganic grain and knew that Constant planned to fraudulently sell it as organic. These farmers received over \$10 million from Constant for their collaboration. It seems these farmers rationalized the dishonest dealings by believing they were not the person actually selling the crops as organic, yet the court proved otherwise. During the sentencing, their attorney asked for leniency because no one was hurt. United States District Court Judge C.J. Williams felt differently, calling their activity “massive fraud, perpetrated on consumers over a long period of time” that “caused incalculable damage.”

The Nebraska farmers received sentences, from 3 to 24 months in prison, and Constant was sentenced to 10 years. All were given stiff fines totaling over \$120 million. Three days after sentencing Constant committed suicide in his garage, bringing his case to a tragic end.

ORGANIC FRAUD FROM ABROAD

This recent domestic fraud case comes on the heels of years of suspected international organic import fraud from ocean freighters carrying grain labeled as organic from high-risk foreign markets. Countries such as Ukraine, Kazakhstan, Moldova and the Russian Federation were identified by the European Union in early 2018 as high-risk areas for organic fraud and the E.U. limited imports from these countries. These shady businesses then focused on the lucrative U.S. organic market with less scrutiny at the border. In March 2018, a shipment of “organic” grain from these countries was found to be fraudulent and 25,000 metric tons of corn was refused entry into the U.S. However, this refusal was because it was whole seed and not cracked corn (only cracked corn is allowed from these countries,) rather than its organic status.

Even though the NOP issued a memo in July 2018 to organic certifiers to be wary of these high-risk countries for grain fraud, little was done at the border to ensure their grain was actually organic. “Although organic farmers were complaining to the USDA about suspected organic grain fraud from imports since 2015, it took a high-profile

story in the Washington Post and a lot of pressure on Congress to get them to act,” said John Bobbe, former Executive Director of the Organic Farmers Agency for Relationship Marketing (OFARM). “Organic farmers need more protections from the National Organic Program.” The Strengthening Organic Enforcement Rule is one result of the action from Congress asking for more focus on this issue from the NOP.

WHERE DO WE GO FROM HERE?

With pressure from the press and organic community, the NOP has responded with various efforts to improve their oversight of organic fraud. In 2018, they began facilitating a tighter working relationship with Customs and Border Protection (CBP). Since the NOP does not have any authority to control commerce at the border, the first step was educating CBP about organic. There were some easy improvements to make such as educating CBP employees about organic status. CBP also now knows to flag any incoming organic products that were fumigated with prohibited substances by APHIS at the border because of invasive pests. The CBP also knows to inform the NOP and prevent those commodities from being sold as organic.

The NOP has recognized that certifiers are on the front lines of protecting organic integrity. They are sharing their improved analytical tools that identify risky behavior with the certifiers and asking certifiers to implement more consistent complaint documentation and follow-through. The NOP has the authority to take away a certifier’s accreditation, yet even with some questionable certifier actions this



tool has been used sparingly. Instead, certifiers are told to improve when they are doing poorly in the oversight of the organic label, but have been allowed to continue in the organic certification business.

Additionally, the NOP has improved their complaint review process and are now encouraging more complaints from producers and consumers to identify fraud. The complaint form can be found at organic-compliance.ams.usda.gov.

STRENGTHENING ORGANIC ENFORCEMENT

The NOP released a proposed rule, Strengthening Organic Enforcement, in July 2020 to deal with many necessary changes to more effectively protect and enforce organic integrity.

To deal with fraud, this rule proposes the U.S. implement an import certificate requirement, requiring the certifying agent to approve the specific import sale of an operator shipping a product into the U.S. This would provide tighter oversight on the volumes being imported, by providing certifiers the info they need to track sales in real time, rather than just once a year at the inspection. The European Union has used this system for numerous years, which has proved to improve traceability and fraud detection.

The rule requires organic inspectors and certification personnel to demonstrate the necessary knowledge and skill needed to perform their jobs through quantifiable requirements and ongoing continuing education. Specific auditing activities will also be required on every inspection to ensure the volumes of outgoing organic products match sufficient incoming organic products.

Additionally, the rule will require certifiers to share compliance-related information with other certifiers and perform a percentage of unannounced inspections each year on operations considered “high risk.” High-risk spot inspections should shed light on suspicious activities and lessen the avenues for hiding illegal dealings.

The rule proposes that all organic operations will have a uniform organic certificate generated through the NOP database to reduce inconsistencies, making it easier to understand if the operation has recently been certified, or is about to be re-inspected for continued certification. Certifiers will be required to keep this publicly searchable database current, whereas they currently are only required to update it on an annual basis.



David Glasgow, Associate Deputy Administrator of the National Organic Program, spoke to the USDA's efforts to reduce organic fraud.



John Bobbe, former Executive Director of OFARM, has spent his career raising awareness of fraudulent organic grain imports and demanding action.

STRENGTHENING ORGANIC ENFORCEMENT RULE: FAST FACTS

WHAT IS IT?

A rule proposed by the USDA that would expand the National Organic Program's enforcement and oversight capabilities to combat organic fraud. It proposes to standardize organic certificates, increase inspector qualifications, increase data reporting, and more.

WHAT'S NEXT?

The public comment period closes October 5, 2020. The USDA will review the comments and develop a final rule. The timeline for this process is unknown.

LET YOUR VOICE BE HEARD

Ask your elected officials to urge the USDA to finalize this rule as soon as possible. American farmers deserve fair competition and a market without fraud.

The NOP-proposed rule appears to have included the suggestions both required by Congress and brought forward by many in the organic community. However, more needs to be done to boost the investigative and punitive capabilities of the NOP. The system within the NOP to scrutinize complaints and bring cheaters to justice must become more robust, with the capability to stop the sale and commerce of fraudulent products. The deterrent to criminal behavior relies not only in tight oversight from certifiers and inspectors, but requires the quick hand of enforcement by government as well. The great majority of U.S. organic farmers are doing an excellent job and uphold the integrity we all depend on for a successful organic market. It is very frustrating to see the integrity of the label damaged by bad actors and a lack of enforcement. While the NOP is implementing some improvements, they continue to be under-resourced and try to implement 20th century tools for oversight of the 21st century organic supply chain. We must all continue to work to demand more protections of organic products from fraud. The National Organic Program must do better to live up to their slogan, *"Organic Integrity from Farm to Table — Consumers Trust the Organic Label."* **NF**



Mislabeled overseas imports have been a problem area for the organics industry.

Author: Harriet Behar

Harriet Behar farms organically on Sweet Springs Farm in Gays Mills, Wisconsin, producing bedding plants, fresh and dried herbs, vegetables, grains, eggs and honey. Harriet serves on the Organic Farmers Association Policy Committee and Governing Council and has been involved with federal, state and local policy advocacy for over 30 years. Harriet has worked as an educator with MOSES, the International Organic Inspectors Association and the University of Wisconsin. She is an active member of the National Organic Coalition, Wisconsin Organic Advisory Council, and most recently served as Chair of the National Organic Standards Board. She has been an organic inspector since 1992 and has visited more than 2200 organic farms and processing facilities around the world.

This article was written for *New Farm Magazine* (Fall 2020), the magazine of the Organic Farmers Association from 2017-2020.



ORIGIN OF LIVESTOCK RULE

The Origin Of Livestock Rule started in 2015. Will we finalize it this year? What must the rule do for organic dairy farmers?

WRITTEN BY: ED MALTBY, NORTHEAST ORGANIC DAIRY PRODUCERS ALLIANCE AND JILL SMITH, WESTERN ORGANIC DAIRY PRODUCERS ALLIANCE

Since 2013, the organic community has been working to fix a loophole in the organic standards regarding the Origin of Livestock (OOL) for organic cow dairies. The United States Department of Agriculture (USDA) needs to finalize the Origin of Livestock rule, ensuring

Origin of Livestock rule, ensuring that all organic dairy farms are being held to the same standards. If you are not in the dairy industry, you might wonder what the Origin of Livestock rule is about and why it is so important to organic dairy producers and the entire organic community.

WHAT IS THE ORIGIN OF LIVESTOCK RULE?

This is the National Organic Program's guideline for transitioning conventional dairy livestock to organic dairy production. Simply put, it sets the standards for the who, what, when, and how a dairy goes into organic production. The Origin of Livestock specifies that for a calf to be considered organic when it is born, the mother cow must be raised organically for the last third of the gestation period and that once an animal leaves an organic herd, it may not return to organic.

WHAT IS THE LOOPHOLE?

The Origin of Livestock rule allows an exception for conventional dairies transitioning to organic. For a dairy farm to transition its operation to organic, it must transition its land over a 3-year period. In the third year, it may transition its dairy herd, meaning the full herd must be managed organically for a year, then the animals in that herd will be considered organic animals for milk production (but not for meat production, since the animal was not born and raised organically its entire life).

Unfortunately, for the last decade, some dairies have manipulated this loophole to continually transition cows onto an organic farm. An example of this loophole being used by some large dairies is the practice of removing their organic calves from their farm to be raised elsewhere with conventional practices, including the use of milk replacer (calf formula). Feeding calves with conventional milk replacer and feed is less expensive than feeding them with organic whole milk. A year before these animals can



Organic dairy calves drink organic milk from a group nipple feeder on pasture.

be milked, they will be transitioned back to become organic and join the milking herd. This example of continual transition into the organic herd is not allowed by most certifiers, nor does it embody the intention of organic standards. However, some certifiers continue to allow this practice.

This loophole puts farmers complying with the Origin of Livestock rule as intended at a large economic disadvantage. Truly raising organic livestock from a newborn calf to a full-producing dairy cow is much more expensive when using organic practices throughout their lives. Farms taking advantage of the existing loophole to continually transition cows into the organic system can grow and manage their organic herds at a much lower cost and are benefiting from an unfair economic advantage within the industry.

WHAT IS THE SOLUTION?

We need the USDA to issue a Final Rule on the Origin of Livestock that is enforceable, consistently interpreted by organic certifiers, stops continuous dairy animal transition, and provides specificity on what the transitioned animals and their progeny can be used for.



ORIGINAL INTENTION OF THE RULE IS IMPORTANT

The final rule must clearly delineate the intention of the Origin of Livestock rule that allows for a finite exemption for a one-time herd transition to organic.

The intention of the rule was laid out in both the Organic Foods Production Act of 1990 (OFPA) and the preamble of the National Organic Program (NOP) Final Rule (December 2000).

OFPA established a minimum standard that dairy cows must be managed under organic production for one year. The preamble of the NOP Final Rule contains several statements that build on that minimum and can be combined under three principles:

1. The opportunity for a producer to convert a conventional herd of dairy animals to organic production is a one-time event per producer. This is clearly mentioned in two separate statements.
2. Once the operation has been certified, all animals brought onto the farm must be organic from the last third of gestation. This is clearly stated in the first and fourth statements of the preamble.
3. There is no allowance to move transitioned animals from the operation on which they were transitioned, to another certified organic operation.

The final rule must clearly delineate these principles so that all certifiers, operations, and the National Organic Program understand them the same way, without the possibility of varied interpretations, so the rule can be upheld in the court of law.

WHY ARE THE DETAILS SO IMPORTANT?

Organic farmers rely on an organic label with high integrity that consumers trust. This is achieved with high organic standards and regulations that are enforceable and upheld by law. Certified organic farmers voluntarily hold themselves to the highest standards. In fact, producers and industry stakeholders regularly share recommendations with the National Organic Standards Board (NOSB) to ensure that organic integrity is upheld with high standards that continually evolve and improve.

Organic dairy farmers call on the USDA to finalize the Origin of Livestock rule this year and ensure that the rule is strong, enforceable, and able to meet these principles:

Organic Integrity: Organic milk is a building block for consumer trust in the organic seal. With this seal, consumers trust that organic milk is provided from cows free of antibiotics and do not consume feed produced with the use of chemicals or pesticides. They trust that the offspring of these cows are raised organically, and future growth of the herd is not the result of continuously bringing conventionally raised animals into the fold.

Consistency and Fairness: One consistently interpreted standard for all dairies transitioning from conventional dairy to organic dairy production, no matter the size or scope of the operation.

Economic Equality: Applying two sets of rules or allowing for inconsistent interpretation of the rule creates an economic disadvantage for producers who follow original intentions of the Origin of Livestock rule when raising young stock for their herd. Those raising youngstock conventionally by taking advantage of the continuous transition regulatory loophole benefit financially by utilizing conventional feed and treating medical issues with antibiotics and other synthetic treatments not allowed in organic production.

Consistent application of OOL leads to a gradual growth of organic milk supply in the marketplace that doesn't undermine existing producers. The continuous transition allows herds to grow at a rapid pace and creates market surpluses forcing down the price organic producers are paid for their milk. As a result, producers are paid at a level that makes them financially unstable and without a sustainable future in the dairy industry. This impacts the dairy family not only on a business level, but leads to potentially losing their sole income, farm ground, and the home they live in.

Enforceability: A clear regulation will be an enforceable regulation, ensuring farms are held to the same legal standard by all certifiers. A final rule must be an easily enforceable rule, clearly written with easily understood standards.

Growing the Organic Footprint: If organic dairy producers can be confident that everyone is following the same rules, producers can make better informed-decisions about the future value of their organic milk and their organic dairy farms. Addressing the problem of continuous transition of livestock will also help create value for organic farms to sell organically-raised cattle, creating a new market for farmers.

Consumers of organic milk expect farms to be managed like the farm below, and the great majority are. But an increasing amount of organic milk is coming from a few farms that do not uphold high organic integrity. Fixing the OOL loophole would level the playing field. (Photo from Chico State Organic Dairy by Darby Heffner)

The national organic community has been united in calling for the OOL loophole to be closed for over a decade.

Organic dairy producers plan for the grazing season and work to balance the right number of cattle to their farms' pasture and water resources. This balance is one example of organic dairies being great stewards of the land. When farmers must make the hard decision to sell organic cattle, they currently do not receive a premium over conventionally-raised cattle. This is exacerbated by the continuous transition loophole, which some farms use to purchase conventional cattle and continuously transition them into their organic farms. The loophole is stifling industry market growth and diversification.

THE RULE IS LONG OVERDUE

The national organic community and consumers have been united in calling for this loophole to be closed for over a decade. Without consistent enforcement, organic dairy family farmers have been at an economic disadvantage for many years. Trust in the NOSB process and the USDA's National Organic Program has faded.



Many dairy farmers leading the fight for a final OOL rule can be credited as pioneers in the organic industry—they are the very people who helped build consumer trust behind the organic seal. Unfortunately, we have lost many of our model, pioneering organic dairies because of the low milk prices paid and the volatility of the organic dairy market because of this inconsistency in the rule. A stronger Origin of Livestock rule has been recommended by every National Organic Standards Board since 1994. The USDA's Inspector General recommended finalizing the OOL rule seven years ago. Congress instructed the USDA to finalize a regulation as a priority by June 2020.

However, the proposal has languished in the USDA internal review process.

Dairy producers have fought long and hard to create fairness in the organic dairy sector with Origin of Livestock. Equality and fairness are essential to our hardworking producers throughout the organic community. As we look to support fairness for existing producers, we are also supporting fairness for future organic farmers, providing encouragement for organic production methods, and ensuring consumer trust in the organic label.



Jill Smith is Director of Western Organic Dairy Producers Alliance (WODPA), representing 285 dairies in the Western U.S. She owns and operates an organic dairy in Washington State.



Ed Maltby is longtime Executive Director of Northeast Organic Dairy Producers Alliance (NODPA), representing 830 dairies in the Northeast U.S.



WHY HYDROPONICS SHOULD NOT BE CERTIFIED ORGANIC

Controversy about what methods can be used to grow crops that can be certified organic isn't new. One type of agriculture that has sparked intense debate in the organic community in the United States is hydroponic production.

Hydroponic production is a method of growing where almost all the nutritional needs of a plant are provided through liquid feeding. Some hydroponic systems involve growing plants directly within nutrient-rich liquid solutions, while others use containers filled with solid mediums like shredded coconut husks, gravel or other materials that hold the plant up while using liquid nutrients to feed the plant.

Over the past several years, hydroponics have been one of the fastest-growing sectors of agriculture in the United States.¹ With the rapid growth of hydroponics reshaping how some fruit and vegetables are produced, policymakers need to thoughtfully define how hydroponic systems should be classified and regulated. The debate about whether these types of operations can be certified as organic will have major impacts on farmers, consumers, communities, and the environment. The regulations that define the USDA Organic seal have come to represent a high standard for environmental protection and sustainability, and allowing an industry like hydroponic production under this label is causing real controversy, especially for organic farmers who use soil-based systems and practices that are well-established in the organic standards.

WHAT IS CERTIFIED ORGANIC?

The USDA's National Organic Standards Board (NOSB) in 1995 defined organic as "an ecological production management system that promotes and enhances biodiversity, biological cycles and soil biological activity."² The core principles of organic include eliminating synthetic inputs and minimizing other off-farm inputs, as well as promoting long-term soil health through practices like cover crops and crop rotation. Underpinning these foundational principles is the potential for ecologically responsible and regenerative soil-based farming practices, not only to mitigate the harmful effects of conventional agriculture, but to positively impact human health, communities, and the environment. Soil-based organic systems build healthy soil nutrient cycles, prevent erosion, provide habitat for biodiverse species, mitigate CO2 emissions by sequestering soil carbon, and more.



Not all hydroponic production is grown indoors in water. An increasing amount of hydroponic production happens outside on acres of plastic-covered soil covered in plastic containers where plants are fed all their nutrients via aqueous solution. Many "organic" berries are being grown in these conditions, yet consumers envision a different growing environment.

WHY HYDROPONIC SHOULD NOT BE CERTIFIED ORGANIC

Because hydroponic systems receive their nutrients from outside liquid sources and are container-grown rather than soil-grown, they cannot recycle nutrients or organic matter back into the soil. Thus, they do not provide the benefits to soil health that soil-based organic systems are **required** to do. Nor do they participate in the hydrological cycling that is such a critical ecosystem service that organic farming provides. This water cycling is critical for cooling the climate. There are also inescapable nutritional differences between soil production and hydroponic production.

Based on the existing legal definitions of organic established by the Organic Food Production Act (OFPA) and the National Organic Rule, **Organic Farmers Association believes hydroponic systems should not be certified organic given that they do not promote soil health and biodiversity.**

WHAT IS AT STAKE?

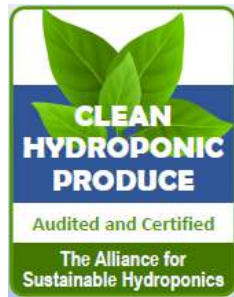
CONSUMER TRUST The tremendous growth of the U.S. organic market rests on consumers' willingness to pay premiums for certified organic foods, which is based on their trust in the certification process and required standards to attain the organic label. It is not clear that consumers think hydroponics have these same characteristics of protecting the environment, biodiversity and human health. Indeed, early studies show that consumers consider organic hydroponics significantly less "natural" than equivalent soil-grown organic foods.³ To verify this, we can see that most large-scale hydroponic producers avoid informing consumers of their use of soilless technologies to produce food. If consumers cannot distinguish soil-grown organics from hydroponics, they may not be willing to pay the same premiums for organic, eroding the integrity of the organic label.

GLOBAL IMPACT ON AMERICAN FAMILY FARMERS Big investment by multinational corporations is driving the current unprecedented growth of the hydroponics industry. Because most other countries, including Canada, Mexico, and the European Union, have prohibited organic certification of hydroponics, these countries' industrial 'organic' hydroponic producers export their produce to the U.S., where, because the USDA permits hydroponics to be certified organic, they can still command an organic premium. The influx of organic-certified hydroponic imports without sufficient consumer transparency undercuts the future price premiums American organic produce farms rely on to survive, which imperils local food systems, jobs, and communities.

CO² MITIGATION Soil carbon sequestration is key to mitigating the environmental impact of CO2 emissions. The Rodale Institute estimates that with widespread adoption of organic regenerative farming, soils could sequester the entire 52 gigatons of CO2 equivalents emitted globally every year.⁴ Hydroponic systems do not recycle carbon into the soil, squandering the opportunity to maximize soil carbon storage and effectively combat the climate crisis.

WHERE DOES THAT LEAVE HYDROPONICS?

OFA does not oppose the use of hydroponic systems to raise food, but we do oppose certifying these operations as organic. With climate change likely to continue to reshape the food system, building healthy soil is incredibly important for the planet, and organic production has always focused on this ecosystem service. Rather than inaccurately lumping hydroponics into the organic label, a new, separate label for sustainable hydroponic production, like the new Clean Hydroponic Produce Standard being developed by Alliance for Sustainable Hydroponics, would more meaningfully acknowledge the benefits these systems provide and offer consumers more transparency in the grocery store.



WHAT YOU CAN DO

OFA opposes organic certification of hydroponics and we have worked for several years to urge the NOP to stop certifying new hydroponic operations and to revoke the organic certification of currently-certified hydroponic systems. The standing NOSB recommendation to prohibit hydroponics was passed in 2010, and is one of the 20 NOSB recommendations that have been set aside by the USDA. You can support our efforts by telling your members of Congress to put pressure on the USDA to implement the NOSB's 2010 recommendation that prohibits hydroponics from being certified as organic.

GLOSSARY OF TERMS

Hydroponic - A method of growing where almost all the nutritional needs of a plant are provided through liquid feeding. Some hydroponic systems involve growing plants directly within nutrient-rich liquid solutions, while others use containers filled with solid mediums like coconut husks, gravel or other materials that hold the plant up while using liquid nutrients to feed the plant.

Aquaponic - A hydroponic system that incorporates fish is called aquaponic. These systems use nutrients from fish waste in the water to fertilize plants.

Aeroponic - When plant roots are suspended in the air and misted with liquid solutions to feed the plant, the system is aeroponic.



Because hydroponic systems receive their nutrients from liquid sources and are container-grown rather than soil-grown, they cannot recycle nutrients or organic matter back into the soil. Thus, they do not provide the soil health benefits that soil-based organic systems are required to do.

CITATIONS

- 1 https://www.researchandmarkets.com/research/whpd4d/united_states_3?w=5
- 2 <https://www.ams.usda.gov/sites/default/files/media/Guide%20for%20Organic%20Crop%20Producers.pdf>
- 3 D.N. Gilmour, C. Bazzani, R.M. Nayga, Jr., H.A. Snell. "Do Consumers Value Hydroponics? Implications for Organic Certification." *Agricultural Economics*. Vol. 50, I.6. Nov. 2019. Pp. 707-721.
- 4 Rodale Institute, 2014. "Regenerative Organic Agriculture and Climate Change A Down-to-Earth Solution to Global Warming." Accessed Nov. 12, 2019 at: <https://rodaleinstitute.org/wp-content/uploads/RegenerativeOrganic-Agriculture-White-Paper-RodaleInstitute.pdf>

A BRIEF HISTORY OF HYDROPONICS & ORGANICS

Hydroponics has not always been allowed in organic certification. Here's a brief history of the controversy.

- 1990**
Congress passed the **Organic Food Production Act (OFPA)** and created the **National Organic Program (NOP)** and the **National Organic Standards Board (NOSB)** to guide USDA on how organic eligibility should be defined and how to implement OFPA. OFPA states, "An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring."
- 1995**
NOSB recommendations on organic standards mention hydroponics, "Hydroponic production in soilless media to be labeled organically produced shall be allowed, if all provisions of the OFPA have been met."
- 2001**
National Organic Standards were published. NOSB passes a recommendation on greenhouse standards. **A proposal to permit hydroponic in organic is defeated.**
- 2010**
NOSB passes another (more detailed) recommendation on greenhouse standards and recommends that **USDA prohibit hydroponics from being certified organic**. USDA fails to move this recommendation forward to rulemaking. Hydroponic greenhouse production labeled as organic is growing rapidly, primarily coming from Mexico and Holland. Certifying agencies are divided--some will certify hydroponic operations under the U.S. standards and some will not.
- 2013**
Without action from NOP to codify greenhouse standards through rule-making, **hydroponic greenhouse production labeled as organic grows**, primarily imported from Mexico and Holland. Certifying agencies are divided on whether they will certify hydroponic production. **Farmers circulate petitions calling on the NOP to act on the 2010 NOSB recommendation.**
- 2014**
NOP Director releases statement that **organic hydroponic is allowed**.
- 2015**
NOP establishes the Hydroponics and Aquaponics Task Force, composed of majority hydroponic growers. Task force releases a divided report.
- 2016**
41 organizations (representing over 2 million people) and 15 former NOSB members call on USDA and NOSB to enact a moratorium on new hydroponic certification.
- 2017**
NOSB failed to pass a new recommendation to allow organic production in containers if no more than 20% of the nitrogen needs came from liquid feed. It did pass a recommendation to prohibit aquaponics. No reason was given why aeroponics should be prohibited while hydroponics should be allowed. **With the failure to pass a new recommendation, the 2010 recommendation remains as the standing NOSB recommendation to prohibit hydroponics.**
- 2018**
The NOP released a statement that hydroponic production has always been allowed and will continue to be so. Many farmers and certification agencies disagreed with this statement and questioned the NOP's ability to make such a claim without substantiating the decision. **This lack of clarity allows inconsistent action between different certifiers and an unlevel playing field for organic farmers nationwide.**