



**ORGANIC FARMERS  
ASSOCIATION**



# 2022 PRIORITIES

The mission of the Organic Farmers Association (OFA) 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.

**[WWW.ORGANICFARMERSASSOCIATION.ORG](http://WWW.ORGANICFARMERSASSOCIATION.ORG)**

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## Restore & Expand 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). The cost share program is particularly important to small, mid-sized, and beginning organic farms.

In August 2020, USDA's Farm Services Agency cut reimbursement rates to 50%, up to a maximum of \$500 per scope. FSA provided inaccurate carryover balances to Congress, resulting in a shortfall for the rest of the Farm Bill cycle. Using American Rescue Plan Act funding, in November 2021 the USDA announced that an additional amount of reimbursement (through a second application process) would be available for FY 2020, 2021, and 2022. But we don't yet know if reimbursement levels in FY 2023 will return to the 75% rate.

### WE URGE CONGRESS TO:

- Increase the reimbursement level in the next Farm Bill.
- Streamline the cost share program. The organic community is discussing ways to improve the program and our surveys reveal that farmers are interested in making the program function differently – to reduce the up-front cost of certification instead of reimbursement.

## 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 USDA NOP MUST:

- Complete and implement the final rule on Strengthening Organic Enforcement (SOE) to better track imported organic products, as required by the 2018 Farm Bill. (Proposed rule comment period was completed in Fall 2020.)
- 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 USDA NOP MUST:

- Finalize an enforceable rule on Origin of Livestock (OOL) 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 Standards (OLPS) rule is another long-overdue measure to strengthen the organic standards, which was delayed and ultimately withdrawn by the Trump Administration. The 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 USDA NOP MUST:

- Finalize the OLPS 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 conditions. But, strengthening several organic standards would make organic even more meaningful as a climate-friendly practice.

### ORGANIC STANDARDS NEEDING ATTENTION INCLUDE:

- Prohibiting hydroponic (require organic products to be raised in soil)
- Enforcing the pasture standard for organic dairy
- Finishing Origin of Livestock (OOL) and Organic Livestock and Poultry Standards (OLPS) rules

### IN THE NEXT FARM BILL, CONGRESS SHOULD:

- Require any climate program to work for all types of farms - organic, diversified, small.
- Increase funding for organic research methods.
- Include the Agriculture Resilience Act, which would use existing USDA programs to make progress on climate.



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# ORGANIC FARMERS ASSOCIATION

## **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 left 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.

Using American Rescue Plan Act funding, the USDA announced in late 2021 an additional \$20 million would be available to supplement the reduced funding for organic certification cost-share (as well as some costs for farms going through organic transition). This supplemental program is available for FY 2020, 2021, and 2022. USDA has not yet indicated what the reimbursement level will be in FY 2023.

While we appreciate this short-term fix to compensate for reduced reimbursement level, we hope that the next Farm Bill can provide adequate funding at the historic 75% or \$750 level or higher from the original cost-share program, rather than requiring farms to apply for two different payments to reach the same reimbursement level.

As Congress prepares for the next Farm Bill, we urge you to consider ways to improve the organic certification cost-share program by:

- Increasing the reimbursement level.
- Streamlining the program. The organic community is discussing ways to improve the program and our surveys reveal that farmers are interested in making the program function differently – to reduce the up-front cost of certification instead of reimbursement.

[For More Information:](#)

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# COULD NEW CARBON MARKETS WORK FOR ORGANIC FARMERS?

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The Paris Climate Agreement commits countries to reduce their emissions to what is called “net zero” by 2050. There is also rising pressure on companies to lower their carbon footprint. Both of these developments are creating new interest and investment in carbon markets. These markets include land-based offset, where credits are created when carbon is sequestered by

foresters or farmers and sold onto the market or directly to companies.

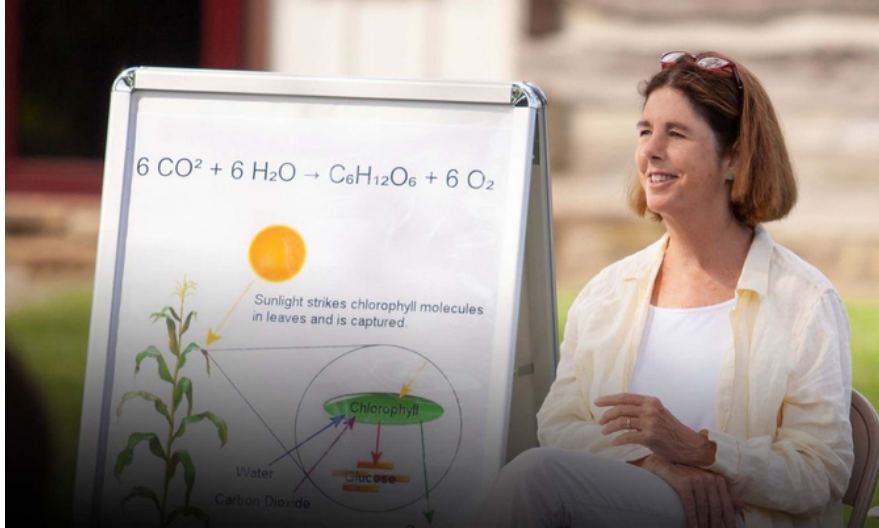
Organic systems are focused on building soil health and many of the farming practices that sequester carbon are familiar to organic farmers. But the quirks of these new markets also pose risks. **Could these new markets also be an opportunity for organic farmers? Well, it depends.**

## WHAT ARE CARBON MARKETS?

The carbon market concept seems simple. A project developer works with a landowner to use agreed-upon scientific protocols to create a carbon credit based on carbon dioxide sequestered, whether through farming or forestry. That credit can then be sold to a company at an agreed price. The company can claim that carbon credit reduction and lower its own greenhouse gas footprint. While it seems simple, the specifics of how these markets work, and how this transaction takes place, are complicated with multiple decision points for farmers to decide whether it will work for them.

Currently, there are different rules, obligations, costs and prices for each carbon market. There are also differences between a government-run regulatory carbon market – such as California’s or the Regional Greenhouse Gas Initiative (RGGI) in the northeast states – and privately run carbon markets or offsets run by companies like Cargill with their farmer suppliers. For farmers, most of the recent interest is coming from private carbon markets, where the decision by companies to purchase land-based offset credits is driven primarily by pressure from shareholders, companies they do business with, or their public reputation.

These private carbon markets recognize a number of practices familiar to organic farmers as being able to sequester carbon including: no/minimum till; cover crop rotation; Adaptive Multi-Paddock grazing; afforestation or reforestation; avoided conversion of grassland; compost addition to rangeland.



**Organic farmer Laura Freeman has been improving Mt. Folly Farm’s soil health and carbon sequestration practices since she became a Donella Meadows Fellow in 2007, where she worked with global climate models. Now, she has paired with American Farmland Trust to measure results of cover cropping, diversity, and roller/conditioning over a 5-year period.**

## HOW DO THEY WORK?

But how the requirements for farmers to participate vary as each private carbon market has its own rules and methodology for generating and selling their farm-based offset credits. For example, carbon market developer Indigo requires farmers to enroll a minimum of 300 acres and include soil testing data, historical and seasonal data about planting and harvest dates, fertilizer types, amounts, and application dates, and tillage types and dates. Another major developer, Nori, requires a 1,000-acre minimum, has similar requirements of farmer data, sets a 10-year contract, and requires third-party verification. Nori doesn’t require upfront soil testing and uses COMET-Farm to generate a 10-year estimate of the changes in soil organic carbon from the adoption of regenerative practices.





Let's take a look at some of the key issues for farmers to consider as these markets develop:

## **CARBON OFFSET PRICES – ARE THEY HIGH ENOUGH?**

Currently, prices on private carbon markets run by Nori and Indigo range in the \$15-\$20 per credit range. The pricing for companies purchasing offsets directly from farmers, such as Cargill or Bayer/Monsanto, is less publicly available. Farmers should be clear on how prices may change over the course of the contract. Carbon market backers believe these prices will rise as demand from companies rises. However, because the purchase of offsets is optional, the companies could choose not to purchase offsets once they become too expensive – or purchase offset credits created in other parts of the world that may be cheaper. Some farmers may recall the [Chicago Climate Exchange](#), which managed a private offset market involving 8,700 farmers in the 2000s, only to have prices and the market collapse in 2010.

## **WHAT ARE THE COSTS?**

A carbon credit is designed to offset pollution from a company in the current year. As a result, the offset must cover carbon sequestered in the current year. For the participating farmer, this likely means they will be engaging in new practices (known in the carbon market speak as additionality). Farmers should consider additional costs associated with producing, measuring, and verifying the carbon credit, including third-party verification if required. For example, Nori does require third-party verification that could cost up to \$3,000 per project, while Indigo requires soil test data from the farmer.

**"Farmers who have been practicing strong soil health building systems for years or decades do not get credit for the carbon stored in the past.**

**...long-time soil carbon builders may actually be at a disadvantage when it comes to developing carbon credits. "**

## **WHAT ABOUT PAST CARBON SEQUESTERED?**

As stated earlier, the credit only covers new (or additional) carbon that has been sequestered. Farmers who have been practicing strong soil health building systems for years or decades do not get credit for the carbon stored in the past. Some soil science seems to indicate there are limits to how much carbon can be stored within the soil, so long-time soil carbon builders may actually be at a disadvantage when it comes to developing carbon credits.



## WHAT ARE THE CONTRACT REQUIREMENTS?

Farmers should be aware of whether they qualify and their legal obligations if they pursue a contract. Carbon stored in the soil can also be released if farming practices change, particularly through tillage. For this reason, the carbon credit contract requires farmers to keep the carbon in the soil during the length of the contract. There can be a number of reasons why a farmer may need to change practices – from changes in weather or extreme weather events to family finances. Farmers should be clear about what their contractual obligations are under the carbon credit contract and for exactly how long the contract continues. Additionally, farmers should understand provisions within the contract for natural disasters such as floods, wildfires or hurricanes, that could disrupt the integrity of the carbon credit through no fault of the farmer.

## WHAT ARE SOME CRITICISMS OF CARBON MARKETS?

One of the fundamental criticisms of carbon markets is that they don't work well to reduce emissions – and in a climate crisis, that needs to be prioritized. The latest report from the Intergovernmental Panel on Climate Change states that greenhouse gas emissions must be reduced dramatically in the next 10 to 15 years. Thus far, carbon markets have not produced major reductions in greenhouse gas emissions.

Some of the sharpest criticisms of carbon markets come from the environmental justice community. Many sources of greenhouse gas pollution are also sources of other toxic air pollutants that affect human health. Many of those pollution sources

**"One of the fundamental criticisms of carbon markets is that they don't work well to reduce emissions – and in a climate crisis, that needs to be prioritized."**

are located in communities of color. Critics such as the Climate Justice Alliance, argue that offset credits allow companies off the hook from reducing their own pollution and associated damage to public health.

There are also continued concerns about the integrity of land-based offsets. The IPCC report concluded that there is not a one-to-one connection between industrial sources of emissions and land-based carbon sequestration, which involve a living ecosystem. The science around carbon sequestration continues to evolve, particularly on the rate of sequestration over time. And the IPCC points out, climate change itself may slow or disrupt our ability to sequester carbon over time.

From farmers, there have been other concerns. Some feel the markets favor certain parts of the country over others because certain soil types can more easily sequester carbon. Others have expressed concern about how their on-farm data will be used by project developers and companies. And there continue to be challenges in accessing these markets for smaller-scale farmers and those renting farmland.

Despite rising curiosity in carbon markets, their future remains uncertain. Government-run carbon markets at the state level continue to struggle to reduce emissions and lift the price of carbon. Currently, there is no major push to create a national government-run carbon market. There is support in Congress to create common rules for private carbon markets, administered through the U.S. Department of Agriculture.

It is good to see that the practices many organic farmers have been using for decades are now recognized for their climate benefits. But how those benefits provided by organic farmers will be valued through climate policy and the marketplace remains to be seen.



**Ben Lilliston is the director of rural strategies and climate change at the Institute for Agriculture and Trade Policy. Ben reports, analyzes and writes about the intersection of climate, agriculture and trade policy.**

## ADDITIONAL RESOURCES

ATTRA, [Payments for Ecosystem Benefits](#), 2020.

National Sustainable Agriculture Coalition, [Climate Solutions for Farmers](#), 2021.

Institute for Agriculture and Trade Policies (IATP), [Carbon Markets and Agriculture](#), 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.



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?



**T**he 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](https://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.





# ORGANIC PRODUCERS NOT IMMUNE TO POOR TREATMENT BY BIG AG

By, Harriet Behar, Sweet Springs Farm

With loss of markets in both grain and dairy in July and August 2021, the organic community took two big hits this summer. Pipeline Foods, a grain dealer that bought and sold organic and non-GMO grains in the United States and Canada, declared bankruptcy in the middle of July. Danone, the parent company of Horizon Organic, canceled organic milk contracts with 89 producers in Vermont, Maine, New Hampshire and northern New York.

Pipeline Foods with annual sales of \$225 million in 2020, is a privately held company that rapidly expanded from its founding in 2017 through numerous large-scale acquisitions of processing, storage, and sales infrastructure, to become a “supply chain solutions” company. Danone North America is a subsidiary of Danone, a European company, and purchased Horizon Organic when it was a publicly-traded company in 2017.

## WE NEED SMART GROWTH

As organic products continue to gain greater market share around the globe, the small and mid-sized organic companies who have built their brands by working with family-scale farmers, are being bought out by equity investment companies or multinational corporations or are changed into publicly-traded businesses. In all of these models, the investors in these mega-operations have the profit motive as their overall goal. At this large scale, gains are made by the pennies by unit, so these types of businesses seek out large corporate farms to provide their raw commodities. Larger volumes than found on family farms result in lower costs of transportation. These companies also push factory farm operations to lower-priced contracts, which conspires to wipe out more family-scale farms from the landscape.



This spring, OFA farm members passed this position directing our work in this issue:

**OFA SUPPORTS competitive markets for agriculture and food products through policies that reduce current and future consolidation, limit mergers, redirect food and farmer subsidies toward local producers, and encourage local economic resilience through building regional food systems that support local producers, processors, and distributors and communities.**

Organic farmers know that it is the health of the overall ecosystem on their farm that is foundational to producing acceptable yields while at the same time building soil health for the future. In the early days of organic, many of the companies and the marketplace embraced a similar viewpoint when building relationships between farmers and their buyers and those selling foods to distributors and retailers. Gone is the model where these companies make business decisions based not only on their financial health but also the long-term health of the market sector and those that supply their raw materials, the farmers.

### **CAN CORPORATE VALUES CLAIMS BE TRUSTED?**

For both Danone and Pipeline, it is ironic that they managed their businesses in a way to severely hurt the farmers who trusted them. Danone is a Certified B Corporation, which is supposed to balance purpose and profit and serve the global community as a force for good. Do the many northeast organic dairy farmers who have lost their market feel they have been treated “Honestly, Responsibly, Ethically or Sustainably” as required by the B Corporation certification?

### **DANONE N.A. FAILED FAMILY DAIRY FARMERS**

The organic milk market has been suffering from over-

supply for many years which can be traced to the proliferation of organic mega-dairies in west and south.

These operations have been exposed through many newspaper articles and through a few National Organic Program enforcement actions as not following the pasture regulation which mandates a minimum of 30% of the ruminant animal's nutrition come from grazing.

In addition, a sneaky loophole where new organic dairy animals can be sourced for increasing the dairy herd has been used by these large-scale operations to avoid raising organic calves for their future herds and instead continuously transition nonorganic animals to produce organic milk. Family scale farmers do not use this “origin of livestock” loophole and mostly exemplify excellent grazing on their farms, since they are building multi-generational businesses and seek to leave their farm in better condition than when they took over. Continuous improvement is not the cornerstone of factory farms, short term profit is sought at the expense of the financial viability and ecosystem health of the operation.

While organic dairy farmers and the greater organic community have been shining a bright light on these issues for over a decade, the National Organic Program has not seen its way to speedy relief. These 89 organic dairy farmers are paying the price of the lack of regulatory change, as well as being the victims of “transportation and operational challenges”.

A true partner with these farmers would have sought out solutions such as building more processing infrastructure in the region to lessen the miles traveled from farm to milk bottler. Unfortunately, Danone did not bring creativity or entrepreneurship to the table when making their decision to devastate this mass of organic dairy farmers. The market is too tight to find another buyer for their milk, which will lead to the next generation no longer being on the farm, and the current farmers losing their livelihoods and possibly their homes.



# A HISTORY OF ORGANIC CONSOLIDATION

Dr. Philip H. Howard, PhD is a member of the faculty at Michigan State University and studies the food system, focusing on consolidation in food and beverage industries. He has studied organic consolidation for the past two decades (see his chart below).

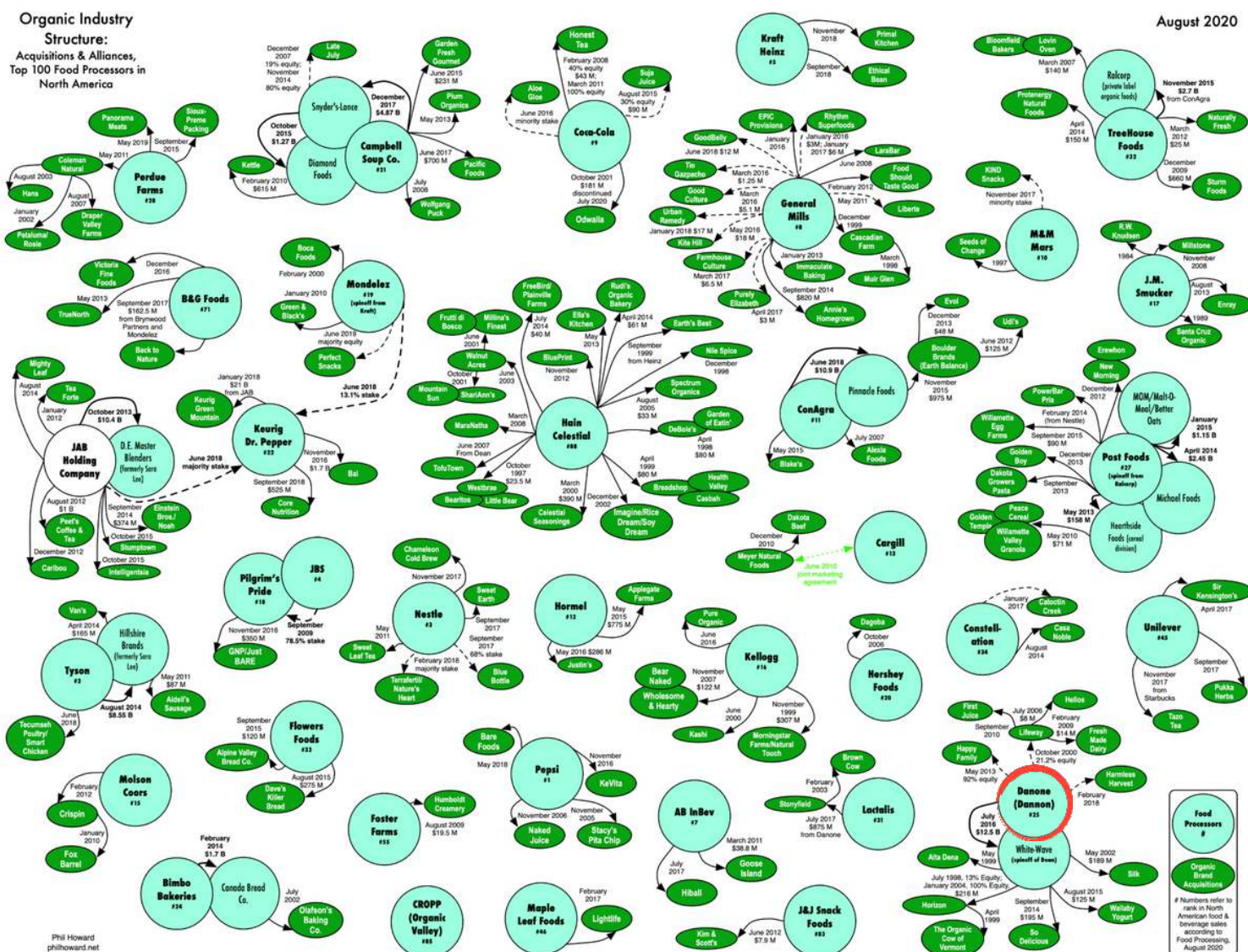
Dr. Howard identifies that "nearly all of the 30 largest processors in North America have acquired organic brands." He also highlights that the "scale of transactions has increased," multinational companies are paying billions for organic acquisitions.

Consolidation creates an unequal playing field where fewer and fewer food system players are making

decisions about our national food and agriculture policies. While one might assume that consolidation would increase food access and lower food prices due to increased efficiencies and streamlined distribution, Dr. Howard has found the opposite: food and agriculture consolidation has reduced food access and caused food prices to increase. He notes in a [recent article](#), "Consolidation makes it easier for any industry to maintain high prices. With few players, companies simply match each other's price increases rather than competing with them."

In order to reduce organic consolidation and return power to local communities, organic farmers need to have a strong voice in changing these policies in D.C.

<https://philhoward.net/2020/09/24/organic-processing-industry-structure-2020/>



## PIPELINE BANKRUPTCY LEFT FARMERS SCRAMBLING & TRACKING PAYMENT

I spoke with many employees of Pipeline Foods, which promoted their business to farmers as being their most trustworthy partner. Pipeline would help farmers from their first day of transition to organic with educational information, and then stand ready to buy their crops for a “good price”.

Setting up this type of vertically integrated system, where the farmers are locked in as a seller of their grain to Pipeline, gave Pipeline a more stable grain supply, but in the end did not serve the farmers at all.

To add to the injury, each state has its own method of overseeing agricultural bankruptcies. Some farmers have tight contracts that do not allow them to sell their grain to any other entity other than Pipeline, resulting in great uncertainty for both the money promised from both last year’s and this year’s crops.

## FARMERS NEED BETTER MARKET OPTIONS

Organic farming used to be a path to family farm stability but is becoming a casualty of big ag and our market-driven economy. Organic farming requires significant management and thought. Adding market headaches to the farmer’s workload is not welcome. Now, Farmers must be savvier in whom they choose to work with, seeking out better buyers, perhaps even at a somewhat lower price, to build trustworthy relationships that understand a strong rural farm economy benefits us all. The COVID-19 pandemic has exposed many weaknesses in our supply chain, now is the time to build solutions that work for family-scale farms.



**Harriet Behar** runs organic Sweet Springs Farm in Gays Mills, Wisconsin. She serves on the OFA Governing Council and Policy Committee and has been involved with federal, state and local policy advocacy for over 30 years.





# ORGANIC HYDROPONICS DEBATES

## WHERE HAVE THEY BEEN AND WHERE MIGHT THEY GO?

By, Becky Weed, Thirteen Mile Farm

In 2010, the National Organic Standards Board (NOSB) recommended against allowing the organic certification of hydroponics. In 2014, the National Organic Program (NOP) officially permitted it, essentially ignoring the NOSB. Reaction to that discrepancy has variously festered, shuffled, and raged ever since. After more than 10 years of debate, the vast majority of OFA members consider this to be a high-priority issue. Over the same 10 years, the hydroponics industry has grown to be a \$1+ billion industry. It's time for distillation of the issues; an update on actions and arguments since 2010 that may inform choices; a look at why the debates still matter; and a plan.



Not all hydroponic production is grown indoors in water. An increasing amount of hydroponic production, especially for berries, happens outside on acres of plastic-covered soil covered in plastic containers where plants are fed all their nutrients via an aqueous solution.

## THE ISSUES

Reasons for opposing the organic certification of hydroponics are compelling, heartfelt, and diverse. What follows is an analysis of the major reasons for keeping hydroponics out of organics, from the point of view of organic farmers who also eat and, in essence, sustain the regulators of the NOP by choosing to seek certification.

### SOIL

The primary, foundational reason for excluding hydroponics from organics, is that farming without soil cannot fully encompass the principles of organic farming, and cannot yield the same outcomes as soil-based farming. The organic management of soils is a perpetual effort to improve soil health as well as the health of the crops and biological communities that soil hosts and interacts with. The traditional language of organic farming's founders and subsequent practitioners as well as the language of the NOP have framed this using terms like fertility, moisture storage, microflora, and parent materials. Collectively these traits also connect the soil to the broader farm environment—its water, biodiversity, susceptibility to erosion, and neighbors. At both small and large scales, these traits have been at the heart of organic

This spring, OFA farm members passed this position directing our work in this issue:

OFA SUPPORTS organic certification of crop production where typical terrestrial plants are grown to maturity in the ground with no barriers between the topsoil, subsoil and bedrock. The plants must obtain the majority of their nutrients from that soil rather than from highly soluble fertilizers. OFA OPPOSES organic certification of hydroponic production and other production systems which do not meet the preceding requirement and URGES the NOP to revoke the organic certification of such operations.

requirements and inspections for certified organic farms. Historically and to this day, some farmers frame this collection of traits in visceral, or even religious terms: “growing in soil is the way God intended farming to be.” Some farmers may not be inclined to use that language in an argument with a regulator, but nevertheless humbly and vocally embrace the complexity of soil, and grasp that we (both farmers and scientists) cannot fully disentangle the variables and thereby mimic the effects of soil by engineering an aqueous system.

## NUTRITIONAL QUALITIES OF FOOD

The second major reason for excluding hydroponics from organics is that soil, and its interactions, drives nutrient density. It is difficult to enter the scientific literature on soil, crops, livestock, or human health these days, without encountering the burgeoning research on the microbiome—in all of those settings. In contemporary scientific terms, this means that considerations of crop and weed diversity, interacting

roots and microbial communities, phytochemical signaling sometimes mediated by microbes, biochemical resilience enhanced by the cation exchange capacity of soils, and subtle micronutrients made available by mineral-microbe interactions, etc. are all relevant to crop growth and nutritional content. Do organic farmers claim to fully understand all this? No one does, but our understanding is growing increasingly sophisticated. It is telling us that **our grandmothers' assessment that we are what we eat still holds, whether we are a tomato or a child.** It defies logic that an engineered aqueous system injecting a set of selected chemicals in a simplified environment is growing nutritionally equivalent food, despite substantial similarities in appearance and composition.

## HARMONIZATION AMONG INTERNATIONAL CERTIFIERS

Europe, Canada, Mexico and IFOAM (International Federation of Organic Agriculture Movements) all exclude hydroponics from organic certification, based on the premise that soil is fundamental to organic farming, by definition. By certifying hydroponics operations, the NOP has created a contradictory standard for U.S. farmers without an adequate rationale.

## INCONSISTENT ORGANIC U.S. CERTIFICATION

Not only is the NOP inconsistent with the international norms on hydroponic prohibition, but its standards are also inconsistent and ambiguous within the U. S. In 2014, when the NOP officially announced that hydroponic operations could be certified, a small but growing contingent of farmers began to ask, “if the NOP is certifying various containerized hydroponic production technologies in greenhouses and elsewhere, what does that look like, and how are they translating a soil-based standard to these engineered aqueous schemes?”



Farmers who had been rallying and writing in opposition to the USDA directive based on their knowledge of and passion for soil-based farming, expanded their muckraking to include questions about land transition requirements for containerized growing regimes. The ambiguities they uncovered led to a USDA memo in June 2019 that tried and failed, to provide written clarification. This in turn led to OFA collaborating with National Organic Coalition and Accredited Certifiers Association, Inc. to conduct a “Three-Year Transition Survey,” questioning 34 certifiers on the protocols for how they determine whether a three-year transition after the application of a prohibited substance is needed for a wide array of production technologies. The survey clearly demonstrated that transition requirements for dozens of growing scenarios, remain ambiguous and inconsistently certified across this country. In response, the ACA working group of 22 members from 18 accredited certifiers met to remedy this inconsistency with guidance but could not agree without NOP clarification.

If failure to address the imperative for clarity and consistency was merely due to bureaucratic oversights and missteps, we could clean up the flaws and move on. We find ourselves asking instead, is the drive to certify hydroponics as organic a misguided effort to drive a square peg into a round hole—to the detriment of the entire organic framework?



Seth Kroeck, Farm Manager at Crystal Spring Farm in Brunswick, Maine has been growing vegetables organically for 20 years. In 2014 Seth began organically managing 72 acres of wild blueberry barren next to his farm fields. They offer several unique blueberry products they market through local retailers. Seth explains, “We grow a native wild organic crop, nurtured in soil that has sustained these plants for millennia. The management of our blueberry fields has to look beyond the next year’s harvest to provide healthy plants that can sustain the next generation of growers who will take over after us. Knowing this, there is a fundamental disconnect when our blueberry products are displayed on grocery shelves next to hydroponically raised berries carrying the same USDA organic seal. Should experienced organic growers, committed to the long-term health of their soils compete against pop-up hydro-organic in what is presented as an apples-to-apples consumer choice?”

**"We find ourselves asking instead, is the drive to certify hydroponics as organic a misguided effort to drive a square peg into a round hole—to the detriment of the entire organic framework?"**



# A BRIEF HISTORY OF HYDROPONICS & ORGANICS

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

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.**

2013

Without action from NOP on 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.**

2015

**NOP establishes the Hydroponics and Aquaponics Task Force**, composed of majority hydroponic growers. Results in a divided report.

2017

NOSB failed to pass a recommendation to prohibit hydroponics. It failed to pass a recommendation to prohibit aquaponics. It did pass a recommendation to prohibit aeroponics. 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 continued as the standing NOSB recommendation to prohibit hydroponics.**

2019

**The NOP issued a Memo that clarified some aspects of container production but also raised more questions.** Center for Food Safety (CFS) petitions USDA to prohibit organic certification of hydroponic operations.

2021

**Federal district court sides with USDA in the lawsuit** brought by CFS and other plaintiffs, ruling that USDA's decision to exempt hydroponic operations from organic soil requirements is allowed because the OFPA did not specifically prohibit hydroponic operations.

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."

2010

**NOSB** passes another (more detailed) recommendation on greenhouse standards and **recommends USDA prohibit hydroponics from being certified organic.** USDA fails to move recommendations forward to rulemaking. Hydroponic greenhouse production labeled as organic is growing rapidly, primarily coming from Mexico and Holland (where it is not certifiable as organic). Certifying agencies are divided--some will certify hydro and some will not.

2014

**NOP Director releases statement that hydroponic is allowed.**

2016

USDA & NOSB receive **letter calling for a moratorium on new hydroponic certification**, signed by 41 organizations (representing over 2 million people) and 15 former NOSB members.

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 and controversy has left a continued distrust of the NOP and inconsistent and unclear organic standards for organic farmers nationwide.**

2020

Center for Food Safety (CFS) (with other plaintiffs from the organic community) files a **lawsuit challenging USDA's decision to allow hydroponic operations to be certified as organic.**

## AN UPDATE ON OTHER CONCERNS

While certified organic farmers oppose certification of hydroponics, we do not dismiss there are concerns within the organic community that need to be addressed, yet **we do not want to “water-down organics” as an easy solution to these systemic problems.**

### EXPAND ORGANIC

An aspiration to “Expand Organics” is admirable, but not if we do so at the expense of a meaningful organic benchmark. Asserting that we must expand organics at all costs is not so different from the troubled history of conventional farming in which powerful forces have driven a single-minded metric of high yield--at the expense of soil, crop, livestock health, and farm profitability, and thus human well-being. Pandemic 2020 has put an exclamation point on that peril.

### INCREASE ACCESS TO ORGANIC FOOD

The vibrant and important field of urban farming offers much promise for access to nutritious food and urban engagement in the vital role of farming in human society, but it is a false premise that this demands hydroponics' certification. The task of ensuring healthy clean soils at any scale in any setting is both a possible and vital aim of growing and learning about food. Indeed, this principle applies to any food desert, urban or rural.

### LEGAL CHALLENGE OF USDA

The legal battle over organic hydroponics is not over. The Center for Food Safety (CFS) lawsuit filed in 2020 failed based on the judge's ruling that he did not have the standing to reverse USDA policy. This ruling was based on legal precedent regarding agency jurisdiction, not the content of the CFS argument regarding the primacy of soil.

### TOO LATE TO CHANGE

Some are asserting that “it would not be fair” for the NOP to change its policy, now that a billion-dollar hydroponics industry has grown with the assistance of the 2014 NOP 'permission'. The irony of this claim is not lost on those in the NOSB and organic community who warned that hydroponics' certification was problematic at its inception, and would be challenged. Nor is it lost on the hundreds of soil-based organic and fruit and vegetable farmers whose livelihood is threatened (or already wrecked) by the tilted playing field that helps an industrial “organic” hydroponics industry to thrive under much less stringent standards.

### THE ORGANIC LABEL IS VALUABLE

Some members of the organic community expressed concern that the hydroponics 'fight', by criticizing the entire USDA organic label, was inadvertently undermining organic producers not directly



Certified organic hydroponic berry production has grown tremendously over the past few years. Left: Organic blueberry hydroponic container production on an organic farm in California. Below: Hydroponic strawberry production.





vulnerable to hydroponic competition. This includes the small grains growers of the Great Plains and their food manufacturing partners, for example, as well as the diverse livestock-based organic sector, and others. Members and leadership of the Real Organic Project (ROP) listened to these concerns and clarified its language to differentiate between its critiques of the NOP and its respect for a wide array of farmers who have come to rely on its organic program.

## ORGANIC INTEGRITY CUTS ACROSS COMMODITY

Loss of integrity in the organic standard in any sector threatens the integrity and reputation in all sectors. Anyone who doubts that all organic farmers and consumers have a stake in the fate of organic integrity need only look to the current issues revolving around fraudulent organic grain imports, delays and limitations in reforming animal welfare provisions by the NOP, and corporate adoption of the regenerative farming rhetoric without rigorous safeguards against greenwashing. We misinterpret internal debates at our own peril, and at the peril of an organic future for food and land. The ostensible “benefits” of pseudo-organic accrue only to those who live by quarterly reports. Natural systems are the ultimate arbiter.

**Becky Weed** has farmed for 30+ years at Thirteen Mile Farm, raising certified organic sheep for lamb and wool in southwestern Montana. Becky is current President of Montana Organic Association, which she represents as an organization leader on the OFA Governing Council.

## WHAT YOU CAN DO

OFA continues to oppose organic certification of hydroponics because our organic farmer members continue to confirm it remains a top priority. 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 move the backlog of NOSB recommendations, including the 2010 recommendation that prohibits hydroponics from being certified as organic, to rulemaking.

No matter what the outcome of the organic community’s collective efforts to hold the NOP to the organic benchmark, OFA will continue to work with farmers and consumers to educate and carry on the mission of advancing organic farming and food in supporting healthy communities and ecosystems. 