

ORGANIC VOICE



ORGANIC FARMERS ASSOCIATION

NO. 10 • SEPT 2023



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- Climate Change

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President's Letter



It's been a difficult summer for farms here in Maine and New England. I don't know when I've seen two back-to-back summers in such contrast. Last year was exceptionally dry. Farms that could, started irrigating in May and had to continue watering, if they had any water left, into August. That's pretty unusual for a state that averages three-quarters of an inch of rain a week throughout the year. The number of acres of hay harvested in Maine last summer almost set a new record, not because folks were putting more land into hay but because it was so dry that farmers could cut on every part of their land. This was probably a good thing as there was basically no second cut due to the lack of rain.

This year is the complete opposite. I pulled out my wellhead connection but never hooked it up. In our home garden, I've run a sprinkler once, mainly to germinate a couple of direct-seeded herbs. Farms have delayed planting veggies waiting for a break in the rain and humidity, but so far that hasn't happened beyond a couple of sunny days. The heat here did break at the beginning of August, although we haven't had anything like the heat in the rest of the country. I expect there are a lot of anxious livestock farmers wondering where their feed will come from this winter, especially the organic livestock folks who are required to feed organic hay.

The other change I'm seeing here in coastal Maine is that the spring season is arriving earlier. It used to be we planned on the third week in April for our major tillage operations, but in the last few years it occurred the second week and even the first week in April. In past seasons, we experienced a late snow at that time! With things warming up earlier, tree and fruit buds open earlier only to have a late frost kill them. What's a farmer to do?

To me, the solution that we as organic farmers can contiguously point out is that we have always been and still are in the carbon sequestration business. Cover cropping, green manures, crop rotation, composting, and rotational grazing are not new concepts for organic farmers. Even conventional agriculture is talking about these techniques now, generally without acknowledging that organic farmers employed all of these systems for decades. As organic farmers, our work needs to be recognized and credit given for the soil health systems already in place. If there are to be payments based on "carbon credits" or some other metric we must insist that organic farmers who have been doing these things for years not be left out. If the counting starts from where a farm is today, healthy soil may not gain as much additional organic matter as conventional soil whose organic matter has been depleted. To me, payments should be rewarding long-term soil stewardship and not just a quick fix and "business as usual."

Organic Farmers Association knows how hard organic farmers work and the expense of putting systems in place to both enhance soil health and mitigate our changing climate. Please join us in spreading the message as we work to get organic farming's role in climate solutions recognized, especially as the next Farm Bill is written.

Sincerely,

David Colson, President
New Leaf Farm, Durham, Maine



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POLICY UPDATE

By Lily Hawkins, Policy Director

SEPTEMBER TIME-CRUNCH ON APPROPRIATIONS AND FARM BILL

As we move from summer into fall, Congress is still working to reach agreement on annual federal spending bills and the 2023 Farm Bill. With slow progress, it is unlikely that either of these packages of legislation will be finalized by their shared September 30th deadline, and unless Congress takes action to pass extensions, a wide array of federal programs, agencies, and services will be impacted.

Meanwhile, OFA continues to advocate for policies that benefit organic farmers. Last year OFA established several [priorities for the Farm Bill](#) based on input from members and allied organizations from around the country.

This month, [OFA introduced a Farm Bill marker bill tracker](#). Marker bills are introduced to build support for policy ideas, but they aren't intended to pass on their own.

Rather, these bills are introduced with the hopes that they will be incorporated into a bigger piece of legislation, such as the Farm Bill. OFA's Farm Bill Tracker includes bills that have already been introduced, and will be updated regularly.

CONTINUOUS IMPROVEMENT IN ORGANIC

Since the organic standards were published, the organic standards have usually only been updated due to an act of Congress, finding by the Office of the Inspector General, or lawsuit. Both the organic industry and the public have expressed a desire to see organic standards updated over time.



While supporting organic-friendly marker bills, OFA is also working to support policy ideas that have yet to be introduced.

OFA is working with Organic Trade Association, National Organic Coalition, and Specialty Crop Farm Bill Alliance to establish an agreed upon set of principles toward establishing a transparent and predictable process to occur in a five-year cycle, utilizing public and stakeholder input and consultations with the NOSB to prioritize and update organic standards.

- Create a process for updates to the organic practice standards on a required regular basis that does not need an act of Congress or lawsuit to get completed.
- Nothing is intended to change the role of the NOSB.
- USDA publishes in the federal register a request for information. NOP consults with NOSB on prioritizing topics for a five-year update. NOP to request NOSB recommendations, if no sufficient prior NOSB recommendation, for rulemaking on prioritized topics. NOSB recommendations go to NOP for rule writing and then enter the APA process for notice and comment rulemaking per five-year cycle.
- Ensure public comment is maintained via the APA process of notice and comment.
- Nothing in this process will preclude an NOSB recommendation and NOP rulemaking from happening on a more frequent or urgent timeline.
- Agree on wording that will garner the widest amount of support from organic stakeholders and be viable in this congressional Farm Bill cycle.

Now the group is advocating in Congress to support legislation based on those principles. [Get involved by reaching out to your member of congress](#) to let them know that continuous improvement of the organic standards benefits organic farmers!

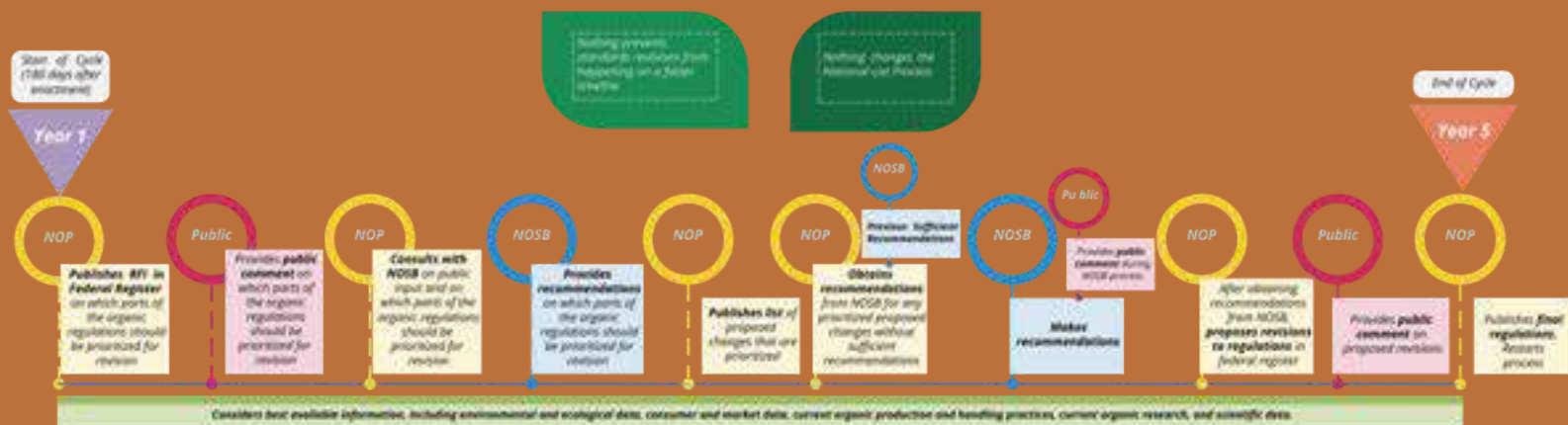
ASSISTANCE FOR ORGANIC DAIRY FARMERS

Organic dairy farmers across the country are facing severe economic challenges. OFA has been working with a group of organic dairy producers and producer groups from around the country to develop and advocate for policy ideas to help make organic dairy farming more economically sustainable.

Read our
detailed proposal

The 2023 Farm Bill could provide long-needed support for the organic dairy market, similar to what conventional dairy has received for many years.

CONTINUOUS IMPROVEMENT IN ORGANIC



OFA is advocating for:

- Investment in regional organic milk processing infrastructure around the country to spur the entrance of new buyers for organic milk.
- Immediate support to address dramatically increased organic input costs for organic dairy farms.
- Support for regional programs to collect and publish cost of production data for organic milk (including all costs, not just organic feed).
- Require USDA to regularly publish regional reports on:
 - Receipts of organic fluid milk products and cream
 - Utilization of organic fluid milk products and cream by pool plants
 - Receipts of organic milk produced, by state
- Creation of a safety net program for organic dairy farms, such as organic-specific margin coverage.

CLICK TO ACT NOW

URGE YOUR MEMBERS OF CONGRESS
TO SUPPORT ORGANIC FARMERS IN
THE 2023 FARM BILL



USDA UPDATES

OLPS Rule in Final Review

The Organic Livestock and Poultry Standards (OLPS) is a long-awaited animal welfare rule that will allow the NOP to consistently enforce stronger animal welfare standards on organic farms and close loopholes being taken advantage of by some large operations.

OLPS was sent to the White House Office of Management and Budget for final regulatory review in early August. This is the last step before this long-overdue rule is finally released. Animal welfare is an issue of critical importance to organic consumers, and tightening these standards will help increase consumer confidence in the organic label.

Cost Share Updates

Organic certification provides producers with a way to validate the valuable ecosystem services they provide, but the associated fees can be burdensome, especially for small and beginning farmers. The Organic Certification Cost Share Program (OCCSP) provides reimbursements to organic farms and handling operations to help cover certification costs. Producers can apply for OCCSP through FSA at their local [USDA Service Center](#). **The deadline to apply for reimbursement for 2023 certification costs is October 31.**

OFA Farm Bill Priorities



ORGANIC INTEGRITY



ASSISTANCE FOR ORGANIC
DAIRY FARMERS



CLIMATE & CONSERVATION



ORGANIC RESEARCH



MAKE USDA PROGRAMS WORK
FOR ORGANIC FARMERS



INCREASING ORGANIC
INFRASTRUCTURE



WORKING WITH ALLIES TO
BUILD A BETTER FOOD SYSTEM



[CLICK HERE TO READ MORE.](#)


This spring, USDA's Farm Service Agency (FSA) announced that they will be restoring reimbursement rates for the OCCSP to 75 percent of the certified organic operation's eligible expenses, up to a maximum of \$750 per scope. This brings the amount of funding back up to the maximum allowed by the 2018 Farm Bill, after a 2020 reduction to 50 percent of the certified organic operation's eligible expenses, and a maximum of \$500 per scope.

Certification Cost Share is crucial for farmers transitioning to and maintaining organic certification. Ask your members of congress to protect and build upon OCCSP by supporting the Opportunities in Organic Act (S. 1582, H.R. 3650). You can find your legislator's contact information [here](#). When you call or email them, be sure to share details on why the cost share program is important to you, how long you've used it, and urge lawmakers to stabilize and modernize the program through the Farm Bill.

INVITE YOUR LEGISLATORS TO YOUR FARM IN OCTOBER

Inviting your members of Congress to visit your farm is a great way to build support for organic by showing off the hard work you do on your farm!

This year, members of the House of Representatives will be working in their home districts the first two weeks of October, and Senators will be in their home districts the week of October 9. This can be an easier time to host a farm tour than the busy summer months!

If you'd like help inviting lawmakers to visit your farm, email OFA Policy Director Lily Hawkins at lily@organicfarmersassociation.org. 

Lillian Hawkins is Policy Director of Organic Farmers Association. She ensures the policy priorities of certified organic farmers are represented in Washington, D.C.



Farm Bill Marker Bill Tracker

OFA has launched its own Farm Bill Marker Bill Tracker to help members, organic farmers, and supporters keep track of marker bills that may impact organic farming in the Farm Bill. Check the OFA website regularly for updates as Farm Bill conversations continue in D.C.

[Get the Tracker](#) 



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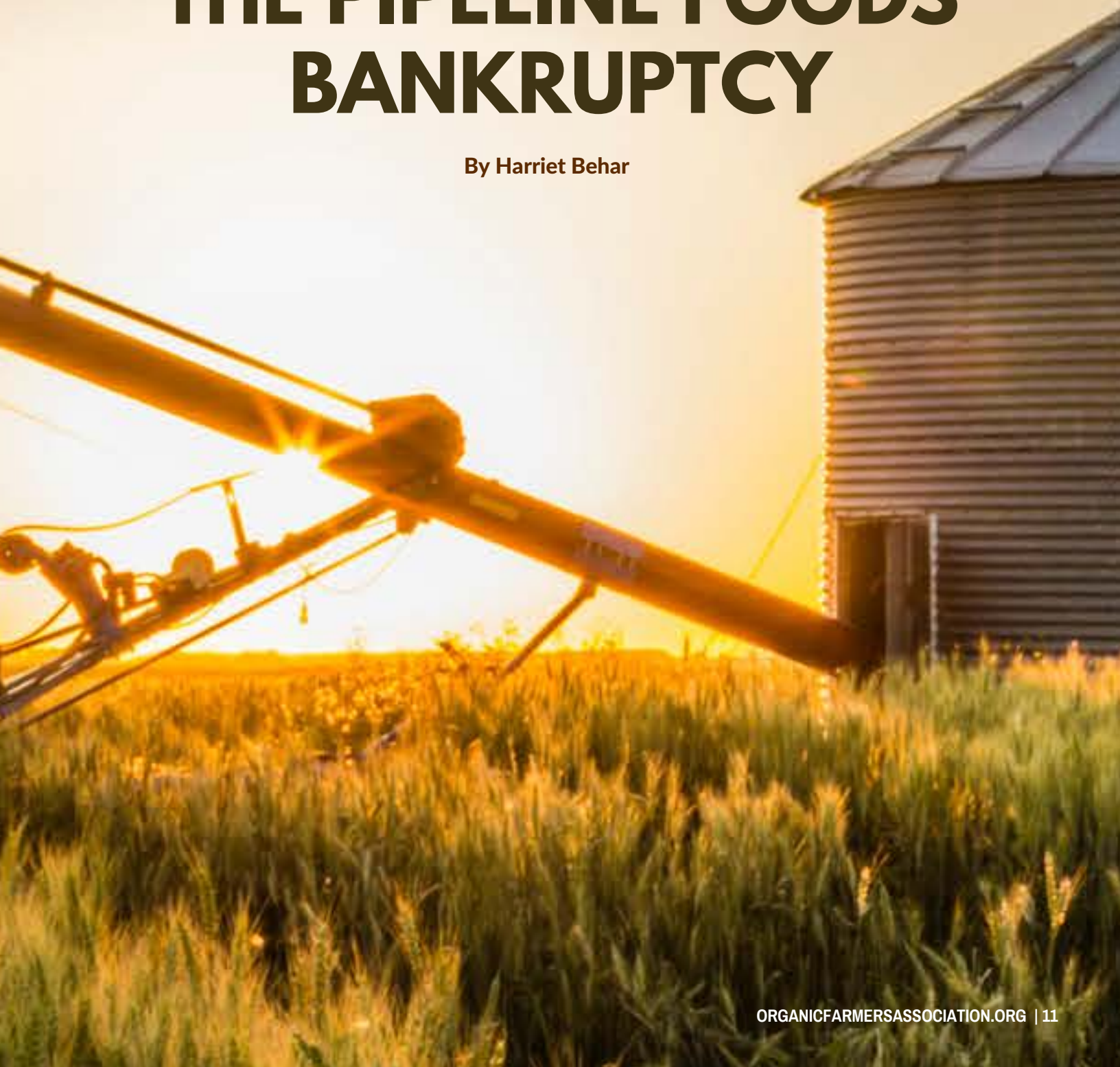


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THE AFTERMATH OF THE PIPELINE FOODS BANKRUPTCY

By Harriet Behar



FARMERS NOT PAID AFTER BANKRUPTCY

On July 8, 2021, Pipeline Foods, a grain buyer, processor, and marketer of organic and non-GMO grains declared bankruptcy. At the time of the bankruptcy, farmers were affected in two ways. 1) They had delivered grain but not been paid, and now would not be paid by Pipeline Foods or 2) They had outstanding contracts to deliver grain to a company they now knew was bankrupt and unable to pay them if the grain was delivered.

Farmers who were waiting on payment had to deal with the state protections for farmers based on the states where their farmers were located or the state they delivered grain into. Many states have grain dealer licensing programs that administer funds or insurance programs to cover obligations from grain dealer defaults. Each state has its own program, so the application and loss coverage details vary by state. OFA covered most states affected in the summer of 2021.

FARMERS HOLDING CONTRACTS TO DELIVER GRAIN

Farmers who were held in contracts to deliver grain were, for the most part, able to negotiate out of those contracts and protect their grain. From July 30, 2021, through September 10, 2021, the Bankruptcy Court entered Orders Approving Stipulation Establishing Procedures for Grain Sellers to Sell Grain and Mitigate Damages to farmers under contract to deliver grain to Pipeline Foods facilities in Minnesota, Iowa, and Michigan. Where farmers under contract to deliver grain to a Pipeline Foods location in Iowa, Minnesota or Michigan were able to submit a form to opt out of any deliveries of Undelivered Grain that are otherwise due for delivery after July 8, 2021.



In a company press release, Anthony Sepich, chief executive officer of Pipeline Foods, LLC, said, “[t]he impact of the Coronavirus (COVID-19) pandemic coupled with the Company’s secured debt obligations have caused significant financial distress on our business. As a result, we believe that a bankruptcy filing and a potential sale of the business, portions of the business, and certain of its assets is the best path forward to unlock value for the benefit of all creditors. I would like to thank all of our employees, growers, customers, and business partners for their dedication and continued support through these unprecedented times.”

2022 CLAWBACK LETTERS SENT TO FARMERS

Approximately one year after the bankruptcy, in the summer of 2022, farmers who had received payment for delivered grain within 90 days of the bankruptcy 2021 date, started to receive “clawback” letters, demanding they send a legal firm, a court-appointed liquidating trustee of the Pipeline bankruptcy estate, all money they had been paid for grain delivered during this 90-day time frame to the law firm within 21 days. These one-page letters were very short and to the point, listing the amount to be returned or else the firm would commence litigation. Different approaches were taken by a variety of farmers to this clawback letter after they verified this surprising and disturbing letter was not a scam.

Organic Farmers Association, sent out communications to help farmers understand this legal activity of “clawback”, and what avenues they could use to lessen or avoid losing their hard-earned payments for their grain.

Since grain farmers may sell a full year, or even multiple years' harvests in one sale, this type of clawback is especially onerous for grain producers and could easily result in the loss of their land and livelihood, and even push the farm operation into bankruptcy, in order to raise the funds to meet the monetary obligations demanded in the clawback letter. Understanding the bankruptcy rules and typical activities taken by the large creditors to recoup as much money as possible from the bankrupt business, can be informative in helping farmers lessen their exposure to loss of income, caused by their buyer's bankruptcy.

Unfortunately, a farmer cannot protect themselves from future clawback within their contracts, nor can they specify that if the grain buyer enters bankruptcy, the contract would be null and void. There is a limitation on how many months can go by after the bankruptcy date, when a clawback letter can be sent to obtain funds from those who deliver grain to the bankrupt entity. There are circumstances that dictate the limitation, but it's approximately two years. For the Pipeline Foods bankruptcy, that limitation has been reached, so if you or someone you know has not yet gotten a clawback letter, or has not received secondary communication about a clawback letter not currently in active litigation, you can now rest easier and collect your daily mail without worry.

HOW DID FARMERS RESPOND TO THE 2022 CLAWBACK?

SMALLER PAYMENTS:

The old adage, "Don't put all of your eggs in one basket" applies to this situation. Speaking to farmers who were caught in the clawback time frame, it appears that smaller dollar amounts were not as aggressively pursued as larger ones. Since the liquidation law firm would need to file a lawsuit, which costs money, the smaller amounts of grain deliveries would not return enough dollars to justify the firm's time in court. Some farmers split the grain payments with the owners of their rented land, and this lessened the value of each of the payments. This might have been more attractive to pursue for the law firm if it had been one larger payment. Splitting up payments, such as among family members, could be a strategy to lessen the farm's exposure to clawback litigation.

ARGUED PAYMENTS WERE WITHIN THE ORDINARY COURSE OF BUSINESS:

Dairy farmers who were caught up in the Dean Foods bankruptcy in 2020 used language within the bankruptcy law to declare that their sales were "in the ordinary course of their business relationship" with the bankrupt company. In addition, they stated that the payment received was not "preferential payment treatment". These two phrases are important, and at least one farmer wrote a letter back to the Pipeline Foods litigating law firm, using these phrases within a letter that also stated they would not be returning any money they had received. Almost a year has gone by since they sent the letter, and there has not been any further communication.

See page 21 for insights from Pipeline Foods' bankruptcy and lessons for the future



ATTORNEY SETTLEMENT FOR LESSER AMOUNT:

Another farmer hired an attorney well versed in bankruptcy law, and able to practice in Delaware, where the bankruptcy was filed. While the attorney fees were a little over \$10,000, the many months of negotiations between the farmer's attorney and the bankruptcy firm cut the amount demanded in clawback letter, to almost one-third of what was originally listed. This farmer needed to take out a loan to pay this lesser amount, and so incurred interest payments as well, but the total amount lost to the bankruptcy court was much less than the original amount demanded in the clawback.

IGNORED THE LETTER/ SHOW UP IN COURT:

Ignoring the letter was another strategy adopted by farmers. One farmer represented himself after being brought into the bankruptcy court after ignoring the letter, but his case was dismissed by the judge and he did not need to make any payments.

ARGUED CASH PAYMENTS:

One farmer requested that Pipeline Foods pay him before delivery after a discussion with a banker. The farmer was told by his banker after he had received the Pipeline check and was sent a clawback letter, that wiring money between banks is seen as cash, and that cash payments are not allowed to be clawed back in bankruptcy proceedings. There is a cost to wire funds, but this could be another method to protect yourself.

STRATEGIES TO PROTECT AGAINST BUYER BANKRUPTCY

Working with longer term established businesses, who have significant equity in their infrastructure rather than debt, is a protective strategy. Selling to numerous legacy businesses, rather than one, also lessens your exposure to losing money if one of them goes into bankruptcy.

Knowing the rules and protections of both the state where the grain was produced, as well as where the grain was delivered, can also prepare you to act quickly to lessen losses. Some states have indemnity funds to protect farmers who are not paid for grain delivered and some states protect farmers with bonds that grain dealers hold with the state when they are licensed to buy and sell grain. While some state indemnity funds will cover up to 90% of unpaid grain payments, unfortunately, many state bonds required are short of the protections needed to cover all debts, especially for the larger businesses. Organic grain producers as well as nonorganic grain producers located in or delivering grain in Iowa dried up the Iowa Indemnity Fund in fall 2022 after another Iowa-based organic grain company, Global Processing Inc. declared bankruptcy. The Iowa legislature had to approve a call for all Iowa grain farmers to replenish the funds, an act that hasn't been necessary since the fund was created in 1986.

WERE THERE WARNING SIGNS AT PIPELINE FOODS?

While Pipeline Foods appeared to be a dynamic and growing business, their rapid growth was a warning sign. To grow the business in their early years, they offered the highest price in the market to attract growers and their grains to be their suppliers. This also caused them to incur debt. In order to fund rapid growth, an international market presence in organic and non-GMO grains, as well as acquisitions of storage and processing facilities, they took on a higher debt load. The bankruptcy itself was caused by some nervousness of the main investors in Pipeline Foods, and their concern that the business was not performing to expectations.



One victory in this story relates to the State of Minnesota's quick response to increase protections for farmers for future buyer bankruptcies. Before 2023, Minnesota used bonds purchased by elevators to compensate growers who went unpaid for delivered or stored grain. The required bond amounts proved to be too low to cover all the claims in the Pipeline Foods bankruptcy, which caused farmers to suffer significant losses. In May 2023, the state of Minnesota created a \$10 million grain indemnity fund to compensate growers if an elevator or grain buyer declares bankruptcy. When first purchasers fail to pay them for delivered grain or redeliver the grain. This will better protect farmers located in Minnesota or selling grain into Minnesota, and provides some enhanced features over the Iowa indemnity fund. Other states may better protect farmers by creating indemnity funds rather than relying on bonds. 🌱



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.

IT HAPPENED AGAIN

In October 2022, another organic grain company, Global Processing Inc. of Kanawha, Iowa organic soybean business filed for bankruptcy, claiming it owed at least 100 creditors \$10 million.

The Iowa Department of Agriculture (IDALS) suspended the warehouse and grain dealer licenses of Global Processing Inc. in early October 2022 because the company failed to "have sufficient funds to cover producer grain checks" and failed to file the required monthly financial statements.

The company had organic food-grade soybean processing facilities in Iowa, Nebraska, Illinois, and Minnesota.



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In 2023, your voice built policy priorities that OFA took directly to Farm Bill negotiations in Congress. You allowed us to meet directly with the National Organic Program and take your concerns directly to the top.

OFA is on the front lines of the fight to protect, support, and expand organic agriculture in the U.S. Your support has a big impact, but there's more work to do.

Before year's end, will you set OFA up for success in 2024?

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Strengthening Organic Enforcement Rule has been Released



Did you know, the USDA NOP is strengthening enforcement of the organic supply chain? Some operations that buy and sell organic products have not been required to be certified organic.

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INSIGHTS FROM PIPELINE FOODS' BANKRUPTCY: LESSONS FOR THE FUTURE

By Harriet Behar

The stunning business failure of Pipeline Foods hit the organic community in the upper Midwest hard. For five years, Pipeline specialized in buying, cleaning, and selling of organic, and non GMO corn, soybeans, and small grains for the food and feed markets. Founded in 2017 and located in the Twin Cities area of Minnesota, the original founding partners, by most accounts, wanted to help build and strengthen the sustainable agriculture supply chain. They also saw the rapidly growing niche organic market as an opportunity to build a thriving domestic business, especially since much of the organic grain used in the U.S. is imported. The company reported \$189 million in assets and \$147 million in liabilities at the time they sought Chapter 11 protection under the federal bankruptcy laws in early July of 2021. At the time of this article, more than one bankruptcy lawsuit is still pending, including one that states the value of their assets was overvalued when applying for loans.

From its beginning, Pipeline Foods moved aggressively to place themselves as the business of choice for farmers and grain buyers, with a stated goal of investing \$300-500 million over time. They started by **offering higher-than-market-value prices to attract farmers to sell to them.** In addition, they acquired numerous facilities to process and store the grain by buying their strongest competitors. Eric Jackson, the original CEO of Pipeline Foods, was quoted by PRNewswire in Sept 2017: "We will put more profits back into the hands of the farmers, create dependability and transparency for food companies, and offer unique investment opportunities for financial partners."

In addition to their presence in the U.S., they also had a regional headquarters in Winnipeg, Canada and Buenos Aires, Argentina.

Their stated business values included a strong commitment to environmental and social outcomes through investments in assets, people, and encouraging the adoption of organic and regenerative farming practices as well as offering full traceability and transparency. This optimism drew employees, suppliers, and buyers to work with Pipeline.

Their ambitious business model resulted in Pipeline hiring a large staff, including support for farmers with production issues, especially for those transitioning to organic. They offered help with seed and fertility choices, and then provided a ready buyer for the farmer's organic grain. Their rapid growth included the purchase of grain cleaning facilities in Canada and the U.S. specialty grain division of SunOpta, among others. The SunOpta acquisition in 2017 cost Pipeline Foods over 65 million dollars. SunOpta was well established in the region, with loyal farmers/suppliers and buyers.

To grow quickly, Pipeline Foods obtained funding from AMERRA Capital Management, an asset management firm that provides capital to the agriculture sector. Rabobank provided capital as well, and offered financial help to farmers to transition to organic. Compeer Financial was also a significant lender, supporting much of the infrastructure purchases.

“Pipeline was an *aggressive* competitor in the marketplace, and pushing into the established organic market *took capital*. As the company borrowed more and more, their *lenders became more concerned*.”

STRATEGIES TO PROTECT YOURSELF FROM A BANKRUPTCY CLAWBACK

- ▶ Sell smaller amounts to multiple buyers rather than one large sale
- ▶ Be aware of the rules and protections in your state, and the state into which you are selling
- ▶ Organize with other farmers within your state to gain additional protections
- ▶ Seek an attorney who is familiar with Use the “ordinary course of a business relationship” statement to avoid the clawback payment

At the time of the bankruptcy, Pipeline Foods owned facilities in Hope, MN, Moorhead, MN, Ellendale, MN, Lignite, ND, Cresco, IA, Bowbells, ND, Atlantic, IA, and two facilities in Saskatchewan, Canada (Wapella and Gull Lake). In 2020-2021, Pipeline had contracted with 1,460 growers and was promoting its services to another 1,800. They also had agreements and investments with railways.

Pipeline was an aggressive competitor in the marketplace, and pushing into the established organic market took capital. As the company borrowed more and more, their lenders became more concerned. AMERRA personnel were in the office weekly and slowly took over the running of the company. In 2019, a new CEO, Anthony Sepich, was installed, which gave AMERRA more confidence that their money was being handled by a more seasoned leader. Sepich came from Compass Minerals (under review for violations of Federal Securities laws), with limited experience in the niche organic market. Former Pipeline employees (who prefer to remain anonymous), state that the overall growth of the organic sector was used as a benchmark to gauge the expected growth of Pipeline's business.

Comparing the consumer marketplace comprising all sectors of the food industry, to an expectation of the growth and profitability for the organic grain market was problematic. Each sector in agriculture has its own challenges and opportunities, and it seems this supply-chain-focused company should have been savvy to know that using consumer demand for the wider industry as an indicator of potential success would not be a true picture of what should be expected for profitability in their smaller commodity sector of that industry.

When SunOpta was purchased, many of those employees came to Pipeline. Since organic grains are limited in their availability, those employees learned over time to build strong and trusted relationships with their farmer-suppliers.

Many of those former SunOpta employees stated that they felt farmers they worked with were their friends, and that they worked hard to build and retain their trust. This led to SunOpta having a reliable pool of high-quality grains. Unfortunately, this was not the culture at Pipeline. As the company's debts rose, Pipeline did not pay on time, lowered the prices they offered to farmers, were picky with charging extra fees or discounting grain for the smallest infraction, such as a little bit higher moisture content than contracted. Many of the employees that came from SunOpta, or who were enticed to join Pipeline by their support of organic agriculture, became disillusioned and left. They were replaced with employees who had very little knowledge of the organic marketplace, and no reason to challenge Pipeline's actions by advocating for a better deal for farmers. Many of the former SunOpta employees expressed how badly they felt to see the farmers be treated so poorly by Pipeline. They were saddened to watch the relationships they built with farmers over decades be destroyed.



See page 11 for more information on how farmers dealt with these clawback letters

The rapid growth, the unrealistic expectations of the organic marketplace and normal supply chain challenges, as well as those brought on by the COVID-19 pandemic, caused the two main investors, AMERRA and Rabobank to become nervous. By some accounts, these two entities did not have the same goals for the company, and did not get along. As the finances became shakier, the relationship between these two lenders became strained. This then caused Pipeline Foods to declare bankruptcy, since their line of credit to run the business was no longer sufficient to do day-to-day business. At the time of the bankruptcy, many farmers had delivered grain and were waiting for payment. Many farmers had also received payment, but some of those whose payment was made within the 90 day period before the bankruptcy declaration received clawback letters. These letters were meant to require farmers to return those payments to Rabobank.


There are many lessons to be learned from the Pipeline bankruptcy and some are self-evident. Avoid fast growing companies that are funded by outside capital who will want quick payback, for example. Organic farmers and businesses need to be careful to not assume that everyone we work with has the same understanding and commitment to organic as the farmer who has deep beliefs in organic agriculture. Perhaps this Pipeline bankruptcy also illustrates that the financial aspect of organic business cannot function within the conventional financial model, just as organic production methods do not fit well within the non organic system of agriculture. 🌱

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.



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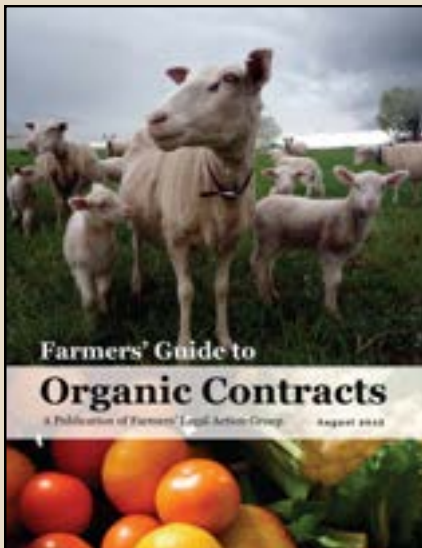
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TIPS FOR ORGANIC CONTRACTS

Thinking of reading another farm contract may make your eyes-glaze-over with anticipated boredom. Or, maybe you're someone who's excited to go line by line and make notes on every contract nuance. Either way, it's a job that has to be done for many organic farmers. Knowing your rights and negotiating fair contracts is important as the organic market grows and new buyers enter the scene.

While there are more specific guides farmers can reference for contract tips, the following is a quick resource to help farmers considering contracts for the first time, and also a refresher for those wanting to reinforce or strengthen their contracts.



If you're looking for more information on contracts, take a look at [Farm Commons' legal negotiations resources](#), as well as contract resources. This content was summarized from the [FLAG's Farmers' Guide to Organic Contracts](#) (August 2012.)

Note: None of this guidance is intended as legal advice. Please consult a legal professional for support with your specific situation.

ORGANIC CONTRACT TIPS

1. Oral or handshake agreements are generally unenforceable in court. Contracts worth \$500 or more, and any changes to those contracts, must be in writing or they are not enforceable in court.
2. If the buyer sends a contract and you don't like all of the terms, you can delete, adjust, or add terms to send back for review. (Even "as-is" contracts can be marked up.) Make sure the timing of buyer payments align with your state's legal protections for farmers being paid upon product delivery.
3. Dig deeper into standard or filler contract language that may look straightforward just as carefully as you review pricing terms to find restrictive language that may cause trouble down the road.
4. Before signing, read every word of a contract and ask questions if you are confused. A contract should be clear to understand. Remember, you can always back out of a contract negotiation if something isn't right.
5. Be sure you know the financial stability of the buyer. If resources aren't shared providing this information, ask other farmers for references based on their relationship with the buyer.

YOU DESERVE FAIR CONTRACTS

All this being said, organic contracts don't need to feel intimidating. If in doubt, it's always best to talk to other farmers about their experiences with buyers and to seek legal advice before signing a contract—the up-front costs may just buy peace of mind in the long run. 🌱

STATE PROTECTIONS FOR GRAIN GROWERS

The organic market is growing rapidly and it is important . Protecting yourself and your farm doesn't always have to fall squarely on your shoulders alone. On page 21, Tips for Organic Contracts, outlines how to anticipate contract problems between farmers and buyers to create a stronger relationship. But what other avenues are available to grain farmers who may face challenges with buyers?

Knowing your state's protections, and those of the states where you deliver grain, will help you make smart marketing decisions and allow you to act quickly and decisively if something goes wrong in your grain business. Many states regulate grain warehouses and grain dealers and this may benefit farmers who find themselves in contract disputes with buyers.

DEALER VS WAREHOUSE

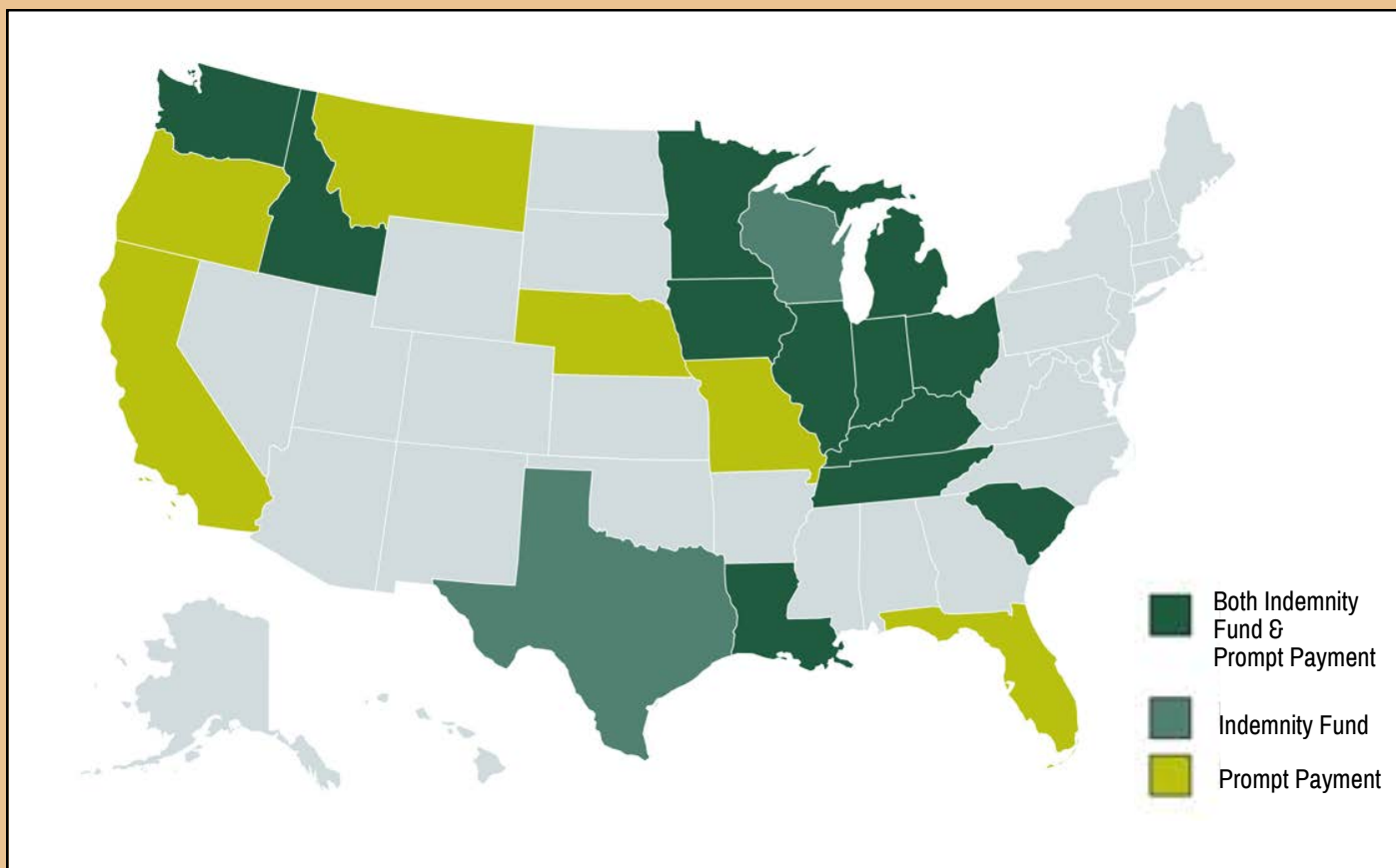
Quick Refresher: Working with dealers involves transferring ownership of the grain from farmers to

dealers, but farmers continue to be the owners of grain when working with warehouses. Warehouses may be licensed under either state or federal license, which offer slightly different protections. Most states have requirements for both dealers and warehouses to work within their state, and requirements vary tremendously. Currently, only 34 states regulate grain dealers and 30 states regulate grain warehouses.

WHERE TO START

If your state has regulations in place for both dealers and warehouses, review to identify areas of concern that may affect your business. Make adjustments in your contracts as needed. If your state does not have sufficient regulations, now is the time to speak to your state representatives to shore up these protections. Minnesota did just that in 2023 by introducing an indemnity fund after their bonding protections proved to provide inadequate protections to farmers caught in the recent organic grain bankruptcies.





Regulations that offer the most protections for farmers may be prompt payment and indemnity funds. Bonding also provides some protection, but is determinant by the number of claims. Here's a closer look:

Prompt Payment

These provisions help ensure growers will be paid within a certain period of time after delivery of the grain. Only 11 states support these regulations for grain dealers and 13 states regarding warehouse payments. For example, a farmer selling grain to a grain dealer in Iowa is protected under Prompt Payment law (Iowa Code § 203.8; .15) to demand payment of the purchase price “upon delivery or demand by the seller [farmer], but not later than thirty days after delivery by the seller.” If a buyer does not pay under these protections you should notify the entity where the buyer’s grain license is held so they can investigate. It may be an indication of financial trouble.

Indemnity Funds

In this system, money is paid into a general fund by state legislation or industry stakeholders. Eligibility to claim funds varies among states, but typically occurs when payment for delivered grain is not made, or if the grain dealer or warehouse becomes insolvent. Eleven states enforce this for grain dealers and 14 states for warehouses (Minnesota was added in 2023). 🌱

HELPFUL RESOURCES FROM THE NATIONAL AGRICULTURAL LAW CENTER:

- To read a short overview publication of typical state regulatory provisions, please [click here](#).
- To access the compilation of state laws relating to grain dealers (including citations), [click here](#).
- To access the compilation of state laws relating to grain warehouses (including citations), [click here](#).



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The futures of organic family farms across the country are at stake, but so is consumer trust and the integrity of the organic seal. No matter the miles between our dairies, the challenges are the same. NODPA will ensure there is consistent implementation of organic regulations to ensure a fair and level playing field for all dairies.



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NATIONAL ORGANIC STANDARDS BOARD FALL MEETING

Farmers' Voices are Important

NOSB's fall meeting agenda is available now, and written comments are being accepted until 11:59 p.m. EST on September 28, 2023.

The meeting is free, open to the public, and no registration is required.

The meeting will also be broadcast live via Zoom.

SAVE THE DATE
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Get Meeting Details

A New Way for Organic Farmers to Grow with SNAP

By Staff at MarketLink

Organic farming's core tenet is to farm using only ecological principles, which leads to a holistic approach that benefits both humans and the environment. Using organic practices encompasses every aspect that a farming practice touches, including the land, water, air, local wildlife, and people. Naturally, organic farming also benefits local communities, by providing more biodiverse and nutrient-dense products for customers. In order for a farm to be truly holistic, it's important to ensure that everyone is welcome, including low-income shoppers who may use federal benefits to purchase food. [The Supplemental Nutrition Assistance Program \(SNAP\)](#)—an income-based federal nutrition benefit program, is one of the largest and most successful food assistance programs that many farmers qualify to accept. One national program, MarketLink, helps farmers get started with accepting SNAP EBT.

According to one participating organic farmer, "Accepting SNAP was worth the work we put into it, because it is part of our core values. We believe it's extremely important to provide access to farm fresh, nutrient dense, organic vegetables to our low-income shoppers who deserve healthy produce just as anyone else does. We would not have been able to accept SNAP without the MarketLink program, it was a huge help to give us the push we needed in getting started," Allison Holland of Rainshadow Organics, in Sisters, OR shared.

Formerly known as "Food Stamps," SNAP serves an average of [41.5 million people per month](#). The program is proven to help stimulate the local economy and is also a source of funding that supports the local food system. According to the USDA's Economic Research Service, every \$1 billion of retail sales generated by SNAP creates \$340 million in farm production, \$110 million in value-added farm product sales, and 3,300 farm jobs. SNAP funds are accessible through an electronic benefits transfer (EBT) card that works like a debit card.



Despite misconceptions, access to organic produce is important to low-income shoppers and many find access through their local farms and farmers markets (Pearson, et al. 2011; Pope 2015). A recent study conducted in California showed that while conventional produce prices were consistent, organic produce at local farmers markets was actually much more affordable than at local grocery stores (Hewawitharana, et al. 2022).

"Accepting SNAP was worth the work we put into it, because it is part of our core values. We believe it's extremely important to provide access to farm fresh, nutrient dense, organic vegetables to our low-income shoppers who deserve healthy produce just as anyone else does."

--Rainshadow Organics Farm

HELPING FARMERS ACCEPT SNAP PAYMENTS

In order to help farmers and farmers markets expand their customer base to include SNAP EBT participants, the [USDA Food and Nutrition Service](#) has supported a multi-year program called [MarketLink](#), administered by the [National Association of Farmers' Market Nutrition Programs](#). Since 2016, MarketLink has built a [national network](#) of farmers and farmers markets that have redeemed more than \$106 million in SNAP sales directly connecting farmers with low-income consumers.

MarketLink helps farmers and markets in two ways:

1. by guiding them through the [USDA SNAP Retailer Application](#), and
2. by providing grant-funded SNAP card processing equipment.

The equipment is provided through a partnership with Novo Dia Group (NDG) which covers a free Bluetooth card reader and a one-year subscription to a SNAP Point-of-Sale App called [TotilPay Go](#) (TPG). TotilPay Go also offers additional options for integrated credit/debit payment processing through their [partnership with Square](#).

Applicants are not obligated to use the grant-funded equipment if they utilize MarketLink's assistance with the SNAP Retailer Application. MarketLink can help applicants explore other equipment options available to them.

SNAP ONLINE SALES

MarketLink also manages the [SNAP Online Purchasing Grant](#) and is accepting applications from farmers interested in accepting SNAP for online purchases. The MarketLink team will provide technical assistance in becoming an authorized SNAP Online Retailer as well as covering the processing costs for our e-commerce provider, [GrownBy](#) for one year. To stay up to date on this grant, [sign up](#) for the SNAP Online Updates email newsletter.



[Watch a video on SNAP/EBT Electronic Payments for Farmers, Markets, and SNAP Beneficiaries.](#)

Accepting SNAP is a win-win for both farmers and their customers. When farmers accept SNAP EBT, it creates a virtuous-cycle of benefits that reinforce each other. In addition to providing food access in their community, and increasing their sales, accepting SNAP also expands a farm's customer base, helps build a sense of community, increases the health and wellbeing of their shoppers, and creates unique marketing opportunities for their business.

To learn more about MarketLink, and to apply, visit www.marketlink.org. 

MarketLink is a program of the National Association of Farmers Market Nutrition Programs that modernizes direct marketing farmers and farmers market methods of accepting Federal Nutrition Assistance Program benefits through contactless payments, simple data management, and quick and secure payments.

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