



The Cornucopia Institute

Erin Healy, Agricultural Marketing Specialist
National Organic Program, AMS/USDA
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Washington, DC 20250–0268
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Re: Notice of Request To Extend and Revise a Previously Approved Information Collection (2024)

The Cornucopia Institute engages in educational activities supporting the ecological principles and economic wisdom underlying sustainable and organic agriculture. Through research and investigations into agriculture and food issues, The Cornucopia Institute provides needed information to family farmers, consumers, and other stakeholders in the sustainable and organic agriculture community.

Cornucopia appreciates the creation and continued use of the Online Complaint Portal. There are several areas where the complaint portal and public-facing outcomes of the complaint portal could be improved.

First, Cornucopia has found that the many organic stakeholders do not know about the complaint portal and the National Organic Program (NOP) website could be improved to make the portal more accessible to the layperson.

Second, Cornucopia requests that the NOP website include more public-facing information on complaints in conjunction with the portal itself. This should include data and more in-depth summaries on ongoing and completed complaints. In general the public is interested in and should be able to access information including the types of non-compliance the NOP is being notified about, which complaints were dismissed, and which were addressed.

Third, a better tracking system for complaints would also be beneficial – for example, the website could include a way for complaint-submitters to track their complaints and where they are in the review pipeline.

Finally, information concerning non-compliances should be readily available to the public on the NOP website. Providing basic facts about non-compliances and their statuses should be available for accredited certifiers and certified organic businesses (both handlers, and producers) to better navigate and understand the organic marketplace as it continues to grow. This level of transparency can be achieved without releasing sensitive information and will overall lead to more integrity and consumer trust within the organic marketplace.

The Cornucopia Institute also supports the effort to streamline reporting and updates to reporting requirements arising from regulation and congressional acts. In the spirit of continuous improvement, there are areas where reporting and data collection should be improved even more. Data collection is at the heart of good governance and fraud prevention. Cornucopia also sees data collection as an essential part of regulation development, as new regulations should be informed by accurate data.

To comply with the Organic Foods Production Act of 1990 (OFPA), the National Organic Program (NOP) must collect information from all certified organic crop producers and all accredited certifying agents on how they comply with OFPA (§ 6513(b)). There are some areas where this data collection has fallen short and can be improved.

Cornucopia suggests implementing data collection in the following areas:

- A. Collect data on how many acres of land deemed “native ecosystems” or otherwise high value conservation lands are converted to organic production without a three-year transition

Cornucopia continues to support the National Organic Standard Board’s (NOSB) recommendation to *Eliminate Incentive to Convert Native Ecosystems to Organic Production*, submitted in April 2018. One of the criticisms of this recommendation is that there is incomplete data on how much un-cultivated high value land has been converted to organic production (despite evidence offered from organizations including the Wild Farm Alliance).

While OFPA doesn’t use the term “native ecosystem” explicitly, the law and the surrounding regulatory materials do reference environmental protection and resource conservation throughout. The recommendation to eliminate the incentive to convert native ecosystems is consistent with the rest of the statute—and allowing organic farming to cause destruction of native ecosystems is incompatible. (Cornucopia previously submitted comments on the legal authority and compatibility of regulating the destruction of native ecosystems and will not reiterate these points here.)

Currently, the organic rules incentivize the destruction of native ecosystem by allowing producers to skip the three-year transition requirements if they use “pristine” wild land to grow their crops.

Consumers often select organic food and products because the standards generally promote environmental sustainability. It then follows that organic consumers are understandably distressed to learn the NOP rules incentivize native ecosystem destruction when protecting native ecosystems is vital to many environmental concerns, including climate change. For example, native grassland and forest soils contain 20 to 50 tons of organic carbon *per acre* in about the top three feet of soil, which is significantly more than farmers can ever hope to store in converted cropland.

Organic farmers who have waited three years to transition conventional land suffer also from an uneven playing field because this loophole allows immediate certification. When transitioned to

organic production, conventional land improves its ability to store carbon and water while improving biodiversity. But even organic cropland cannot meet the ecological benefits offered by native ecosystems. Organic businesses are concerned about their long-term investments and the integrity of the USDA Organic label.

More data collection in this area could help guide the regulatory process that is needed to get rid of the unintended loophole in the organic standards.

- B. Collect data on how many acres receive specific organic cultivation practices, such as cover crops, compost, and different tillage practices.

The 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.” (§ 6513(b)(1))

As “climate smart” agricultural programs are rolled out and created, it is essential that the organic marketplace be able to accurately demonstrate the impact organic cultivation practices have on the climate and conservation efforts. Data collection about the specific cultivation practices found among organic producers will also inform the National Organic Program’s regulatory agenda, guidance, and even future training.

Data collection concerning organic cultivation practices should also include places where there is an absence of these cultivation practices, such as in soil-less production.

Collecting data surrounding organic practices will also allow better tracking and research for improving all agriculture.

- C. Collect and distribute data about the existing and upcoming soil-less production within certified organic producers.

As stated in the request for comments, one of the purposes of the OFPA is to “assure consumers that organically produced products meet a consistent standard.” There are significant differences between soil-based and soilless crop production systems, but there is no data available to determine how much of the marketplace is comprised of the certified organic products from these two different production systems. This inconsistency goes to the heart of organic integrity: better data collection is needed to address this concern.

At a minimum, the following data should be collected from accredited certifiers on:

1. The number of hydroponic, aquaponic, and other soil-less “container” operations that they certify,
2. The amount of certified organic acres currently in some form of soil-less organic production,
3. The types, quantities, and values of the crops produced using soil-less production methods,
4. Data on imports and exports of soil-less commodity types, and

5. The labels and/or brand names of soil-less organic crop products and the markets where these products are sold.

As with collecting and cataloging data on cultivation practices, this data should also be easily accessed with few changes from accredited certifiers. Since certifying agents are already required to ask specific questions to assess a crop operation's compliance with OFPA Section 6513(b)(1) (where the law currently states that organic plans "shall contain provisions designed to foster soil fertility"), much of this data collection would just be formalizing and organizing the collection process.

Consistency in the standards cannot be maintained without knowing what is going on in the organic marketplace, and how those standards are being interpreted and enforced. It is important to differentiate soil-grown and soil-less organic production because of OFPA's requirements for consistency. The OFPA's intent to facilitate interstate commerce in organic products is also addressed by maintaining and supporting this type of data collection.

The USDA already collects data from certifiers, some of which is provided to the public on its Organic Integrity Database (these include: Broker, Community Supported Agriculture, Co-Packer, Dairy, Distributor, Farm, Grower Group, Livestock, Marketer/Trader, Poultry, Private Labeler, Restaurant, Retail Food Establishment, Slaughterhouse, and Storage). Hydroponic, aquaponic, "container", and other soil-less production systems should be added to publicly available data as soon as possible.