



January 25, 2018

Commissioner Richard Ball
New York State Department of Agriculture and Markets
10B Airline Drive
Albany, New York 12235

Dear Commissioner Ball:

NOFA-NY would like to thank you for your recent participation in the NOFA-NY Winter Conference in Saratoga Springs. We again appreciated your annual plenary talk to the NOFA-NY membership, as well as your and Jennifer Trodden's participation in our small discussion with NOFA-NY Board and staff. We look forward to meeting in the future to review NOFA-NY's education programs that support the organic farm community of New York State.

Among the many topics we discussed with you, was the state of organic dairy in New York. As agreed, we have provided you with some bullet points about the serious issues facing our farmers for your use at the upcoming NASDA Winter Policy Conference in Washington, DC.

In addition to the following bullet points, we have attached a recent letter that NOFA-NY and the Northeast Organic Dairy Producers' Alliance (NODPA) sent to the entire New York Congressional Delegation, as well as a NODPA newsletter.

- There are over 660 certified organic dairy farms in New York. New York ranks third in the nation for number of organic farms with milk cows, and second in farmgate sales of organic milk.
- Organic has been an important market that has provided for the viability of family-scale farms across the state for both dairy farms and associated feed and grain producers. Until recently, the organic milk buyers had been using signing bonuses and increased pay price to encourage more farmers to transition to organic.
- The organic milk market in the Northeast is suffering from specific conditions that are different than those in conventional milk markets. Because of a wealth of data available through the Federal Milk Marketing Order, changes in the conventional milk market are predictable and widely publicized. But the change in the market came suddenly and without warning for organic dairy farmers: In January 2017, organic marketers were looking for more organic milk, in February 2017, they said there was an oversupply, and by March 2017, they were imposing quotas on organic dairy farms in the state.
- **Since Spring 2017, organic dairy farm families have been hit twice: once with a 25 percent drop in pay price and then with a restriction on how much milk they can produce.**
- For many years, the demand for organic milk drove many New York farms to transition to organic, incurring the expenses of organic feed and management practices while still selling their milk as conventional for 3 years. But now, the rate of farms transitioning to organic has slowed significantly because farmers who had started the transition process, but didn't have a signed contract with a buyer, have nowhere to sell their milk.

- The Northeast organic milk supply has been undermined by a flood of cheaper organic milk from large dairies in the West and Midwest that expanded rapidly when the price was high in 2016. The certifiers for these dairies have allowed them to not reflect the legal requirements of the one-time transition allowance to convert conventional cows to organic, as well as the necessary access to pasture. In the Northeast and the majority of the country, farmers are held to higher standards by their certifiers that reflect the regulations and consumer expectations.
- This exploitation of regulatory loopholes has upset the balance of supply and demand previously practiced in the organic supply market, and consequently sent the farm-gate pay price into a tailspin. Without a Federal Milk Marketing Order, organic buyers had mandated their own supply management. The flood of cheaper organic milk from the West and Midwest has dramatically upset that balance to the disadvantage of New York organic dairies.
- The Northeast region does not produce enough organic milk for consumer demand in the region. This should be an advantage for New York organic dairy farmers that should translate into a sustainable pay price, but this has been exploited by large scale dairies in the West and Midwest.
- The cause of this uneven playing field is the result of the failure of the USDA's National Organic Program to ensure that all accredited organic certifiers are interpreting the organic standards in the same way.
- The abuse of standards that has allowed the rapid increase in supply has been particularly egregious with one very large organic dairy in Colorado. Despite being inspected three times in one year, under the authority of the USDA NOP, there has yet to be an explanation for how 5,000 cows can be grazed to the required standard. Until all organic certifiers, especially those certifying organic dairies of 5,000 cows and more, have the capacity to certify to the same high standard, New York organic dairies will be operating at a disadvantage.
- The National Organic Program can level the playing field for New York's organic dairy farms by requiring all certifiers have the experience, capacity and willingness to enforce the organic standards on access to pasture and the transition of conventional animals to organically certified status.

It is the responsibility of the USDA NOP to ensure the integrity of their organic seal to protect the long-term investment and livelihood of New York organic dairy farmers who are the backbone of our rural economy. We hope that you will further investigate this situation and convey to the agriculture commissioners of other states, as well as the leadership of the USDA, the critical need for a level playing field in the organic dairy marketplace.

Sincerely,



Andrianna Natsoulas,
Executive Director

Enc. Copy of NOFA-NY/NODPA October 2017 letter sent to entire NY Congressional Delegation
January 2018 NODPA Newsletter

Cc: Jennifer Trodden



Northeast Organic Dairy Producers Alliance

October 26, 2018

Senator Kirsten Gillibrand
478 Russell Senate Office Building
1st & C Sts. NE
Washington, DC, 20510

Dear Senator Gillibrand:

Founded in 1983, the Northeast Organic Farming Association – New York (NOFA-NY) is the premier statewide organization growing a strong organic and sustainable agriculture movement in New York State. NOFA-NY provides education and assistance to local organic and sustainable farmers; connects consumers with organic and sustainable farmers; advocates policies that support a sustainable food and farm system at both the state and federal levels; and we are the largest USDA-accredited organic certifier in New York certifying over 1,000 organic operations in the state.

The Northeast Organic Dairy Producers Alliance (NODPA) is the largest organic dairy producer organization in the country with a membership of eight hundred and thirty six organic dairy producers in the Eastern US. NODPA's mission is to "enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the well-being of the organic dairy industry as a whole." NODPA is not aligned with any one processor or cooperative and therefore is able to represent the views and needs of many different farmers.

Organic dairy in the Northeast is in crisis. 2017 saw a massive drop in pay price for most producers, and an oversupply of organic milk that we anticipate will take until well into 2018 to adjust. Even though the Northeast is an organic milk deficit area, all producers have been hit by a \$2.00-8.00 drop in pay price (a \$10 drop for some by spring of 2018) and most have had a form of quota applied. Farm families have been hit twice: once with a 25% drop in pay price and then a restriction on how much milk they can produce. Despite the fact that retail sales of organic milk in the Northeast have increased, the national oversupply of milk has hit organic producers hard, many of whom have no safety net.

The reasons for this surplus can be summarized in three distinct areas - inadequate supply management by milk buyers, poor implementation of existing National Organic Program regulations, and the failure of USDA National Organic Program (USDA NOP) to publish regulations to uphold a consistent and fair organic standard.

From 2012 to 2015, milk buyers encouraged organic dairy producers to increase production in order to correct a deficit in supply. Pay price went up and conventional dairy producers were

encouraged to transition to organic production. In 2017, pay price has dropped below a break-even level and buyers have been breaking agreements with transitioning producers. Organic milk buyers will not need new producers until at least 2019.

The growth of organic milk retail sales had been increasing by approximately 7% per year from 2010-2015, and manufacturers were constantly competing for new supply. In 2017, while whole milk sales were increasing annually at 15%, non-fat organic milk sales, which are 62% of total retail sales, decreased by 2%. While this trend is predictable, the increase in the certification of large scale organic dairies is not. The increase in the number of large scale, vertically-integrated organic dairies, that have economies of scale and often engage in prohibited practices, has upset the balance of supply, relative to demand. The lack of consistent enforcement of organic standards has allowed several processors to respond quickly to a shortage of organic milk and increased their ability to undercut other sellers in the private label/store brand market which is now in second place for retail sales of organic milk.

The solution to the large fluctuations in organic dairy pay price can be found in changes to regulation and to the practice of certification. While these measures will not solve the current oversupply problems, they will restore confidence in the organic dairy market for producers and their lenders while also presenting a positive future for those conventional farmers who are transitioning. If Congress expresses support, these changes can be achieved either by the USDA NOP through administrative action and regulation or by Congressional action in the upcoming Farm Bill or Appropriations.

Recommendations are:

Publication of the Final Rule for the Origin of Livestock

- The immediate prioritization of the publication of the Final Rule for the Origin of Livestock with a provision that ends the one time transition of conventional dairy livestock and prohibits the continuous transition of breeder stock. This regulation is not controversial and the first Proposed Rule was published in 2008. The organic dairy industry has matured to the point that it can supply all the animals needed to meet the projected growth of the organic dairy market. Those operations transitioning from conventional to organic can now purchase certified organic animals at prices equivalent to conventional livestock rather than transition conventional herds. This would put organic dairy on the same level as all other organic commodities; would stop the fraud and confusion existing within the organic dairy industry; would stop continual transition of non-organic dairy heifers; and would ensure that all US-based and internationally based certifiers are using the same standards. The alternative to regulation stopping this abuse would be to amend the OFPA and delete SEC. 2110. (7 U.S.C. 6509) (e)(2).

Consistency of interpretation and implementation of standards

- The USDA needs to enforce a consistent interpretation and implementation of § 205.237 Livestock Feed and § 205.239 Livestock living conditions. There must be consistency in the inspection process and procedure for assessing compliance with the

Access to Pasture Regulations. NOP needs to restrict the certification of organic dairy operations with over 1,000 cows to approved certifiers that use inspectors and certification staff who have proven experience in certifying large organic dairies. The inspector/certification staff must have experience in livestock nutrition that encompasses bona fide knowledge of grazing, and include in the calculation matrix for pasture dry matter intake and pasture consumption as well as a series of validation exercises such as tying the ration back to the milk yield to verify compliance.

Certificate of proficiency for Inspectors and Certification staff

- The USDA NOP needs to work with the organic community to establish a certificate of proficiency for organic certification inspectors and certification staff to fully implement the requirements of 7 C.F.R. § 205.501(a)(6). The economic success of organic dairy depends on strong enforcement by USDA and USDA-accredited organic certification organizations, domestically and internationally. It is the job of the certifiers to ensure that all organic operations meet the strict production, processing and handling standards established by USDA through an open and transparent public process. It is the job of USDA to use its accreditation and oversight functions to ensure that certifiers are enforcing the standards in an effective and uniform manner for all organic operations. Consumers and producers expect uniform enforcement of the standards. This is currently not happening in organic dairy. The NOP has recognized the need to educate inspectors and certification staff with the provisions in NOP 2027 and in their request to the NOSB for recommendations on improved practices. Certifiers are already using independent organizations to provide basic and further education for their inspectors and certification staff. The introduction of some type of USDA-approved certificate of proficiency which can include specific commodity qualifications is essential for the future integrity of the organic label.

Dairy Margin Protection Program

- Extend the Dairy Margin Protection Program to cover organic dairy operations by using the cost of organic dairy feed and inputs to calculate organic milk margin. This program is now under review during this upcoming Farm Bill process as Congress responds to criticism that small to mid-size dairy operations do not benefit from the program. With the current crises in organic dairy and with some organic dairies only receiving \$14 per cwt for their milk, this program could be an important factor as the pay price in organic dairy is starting to reflect the cyclical surplus/shortage of conventional dairy.

Organic Production Market and Data Initiatives (ODI)

- The USDA's Organic Production Market and Data Initiatives (ODI) collects information vital to maintaining stable markets, creating risk management tools, tracking production trends, and increasing exports. Support the expansion of reporting of real time data on organic dairy and the cooperation between all agencies within USDA, principally the Federal Milk Marketing Orders, USDA ERS and USDA AMS, to provide producers with an accurate and independent assessment of the market. Since there is no Federal Milk

Pricing within Organic Dairy, producers have to sign individual contracts with milk buyers without the benefit of real time information on supply and utilization of organic milk.

Organic dairies are approximately 18% of New York dairy farms as well as 27% of Vermont dairies and 22% of Maine dairies. Nationally, organic milk represents approximately 6% of the total milk volume with over 2,216 organic dairy operations. Organic dairy farms represent a significant part of the rural environment and economy. The challenge in the next few years for the Northeast and the whole USA will be to protect the integrity of USDA organic certification so that when the glut of organic milk finally subsides we will have a level playing field with which we can re-establish a thriving organic dairy market that pays a fair price to producers while guaranteeing the integrity of the product for consumers.

Thank you for your work on behalf of New York farmers.

Sincerely,



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