



How the United States Regulates Organic Foods Effectively in a System Where Certifiers Compete

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Organic food in the United States is governed by an unusual regulatory arrangement. Under the National Organic Program, the U.S. Department of Agriculture (“USDA” for short) sets national organic standards governing how organic products are grown and handled. It relies on independent agents, however, to certify farms and other operations as organic and monitor them for compliance. Organic certifying agents (also known simply as “certifiers”) are diverse. Of the 48 certifiers that are based in the U.S., 20 are governmental organizations, such as state or county departments, 11 are tax-exempt nonprofits, and 17 are for-profit businesses. Producers choose their organic certifier and pay them a fee for their work – a situation that causes certifiers to compete for food producer and handling clients.

Concerns about Competition among Certifiers

Organic certifiers can compete in various ways. One is through how they fulfill their certification responsibilities. Prior to the implementation of federal organic standards, some certifiers contended to set the “gold standard,” offering organic operations credibility through stringent criteria and rigorous enforcement practices. When federal organic regulations were enacted in 2002, many worried that the trend toward rigor would reverse. With uniform national organic standards, they reasoned, operations might “shop” among competing certifiers to find one with lax inspection and enforcement practices. And because certifiers rely heavily on fees, observers worried that nonprofit and for-profit certifiers would engage in a race to the bottom, using regulatory leniency to attract and retain clients.

What Research Shows

To find out if the monitoring and enforcement practices of nonprofit and for-profit certifiers are in fact more lenient than those of government certifiers, I studied the regulatory approaches of organic certifiers. In a nation-wide survey, I asked certified organic farmers about four aspects of their certifiers’ behavior: the strictness with which they interpret regulations, their propensity to administer sanctions, their willingness to allow farmers to fix noncompliance issues before issuing sanctions, and whether they provide farmers information and technical assistance. The findings are promising. I found only one notable difference in the way that certifiers fulfill their regulatory duties. In comparison to government certifiers, for-profit organic certifiers seem to provide more information and assistance that helps farmers comply with the regulations. Otherwise, governmental, nonprofit, and for-profit certifiers are indistinguishable, as far as we can tell from farmer accounts of regulatory behavior.

Aside from fees, organic certifiers can compete through the services that they offer – and it is in organizational services that I found the greatest differences among governmental, nonprofit, and for-profit certifiers. By examining the services advertised on certifiers’ websites, and combining that information with assessments offered by organic farmers in response to survey questions about the quality of certifiers’ services, I was able to determine the service focus of each type of certifier. I found that services differ in predictable ways. Governmental certifiers generally limit their services to organic certification and regulatory functions. Nonprofit certifiers also tend to emphasize mission-related services, like offering organic farming education and policy-related advocacy. For-profit certifiers tend to offer specialized service bundles, often with additional services such as gluten-free and fair trade certifications alongside the USDA organic label.

In sum, my research suggests that instead of competing based on how they administer regulatory standards, organic certifiers compete with services. Some offer specific functions, while others bundle desirable services alongside organic certification. The bottom line is nicely summarized by an organic certification expert I interviewed, who observed that “it used to be that certifiers would compete on standards, but they cannot do

that anymore...so now that leaves customer service and types of certification...kind of a range of services.”

Aspects of the Regulatory System that Support Organic Integrity

My research shows that the National Organic Program’s unusual arrangement generally supports consistency and effectiveness - what the program calls “organic integrity” – in three main ways:

- **By reinforcing collaborative traditions born out of the early organic movement.** Most of the certifiers that administer USDA organic standards preceded federal intervention in the organic market, and the USDA modeled its standards after those of several earlier programs. Today, many organic certifiers continue to collaborate through the Accredited Certifiers Association, a voluntary membership organization that provides education and other services to organic certifiers and producers.
- **Through USDA accreditation of organic certifiers.** To be an official organic certifier, an organization consents to USDA oversight in the form of audits and other requirements. In the early years, limited funding constrained oversight, prompting criticisms that culminated in a critical audit by the Office of the Inspector General. Subsequently, funding was increased and the USDA ramped up oversight in a newly proclaimed “Age of Enforcement.” Today, the USDA conducts regular accreditation audits of certifiers’ policies and procedures, and works with certifiers to uncover and sanction violations and fraudulent organic marketing claims.
- **Through consumer confidence in the USDA organic label.** Anything that undermines consumer confidence translates into reduced sales of organic food – which in turn means fewer producers and a smaller client base for certifiers. It is in everyone’s interest to uphold the the USDA organic label and the integrity of the regulatory system that stands behind it.

Finally, organic integrity is also furthered by advocates and consumers. For example, an early draft regulation to allow municipal bio-solids, produce irradiation, and genetically modified organisms was discarded after the USDA received a record 275,603 citizen comments, most calling for more stringent standards. Today, the National Organic Program relies on citizen complaints to identify fraudulent certifications and other violations – and such vigilance by activists and consumers is sure to remain vital to the integrity of the USDA organic label.

Read more in David P. Carter, “Regulatee Choice in Certification Schemes: Explaining Selection from among Certifier Options.” *Public Administration* (2017).