



Mark Bradley
NOP Compliance and Enforcement
USDA, Agricultural Marketing Service
1400 Independence Avenue, S.W.
Mail Stop 0268
Washington, D.C. 20250

April 13, 2011

RE: Formal Complaint Regarding CROPP Cooperative's Marketing of Petaluma Egg Farm Eggs

Dear Mr. Bradley,

The Cornucopia Institute is filing this formal legal complaint with your office, as per the enforcement process outlined under federal law, concerning a possible violation of the National Organic Program's regulatory standards by the CROPP cooperative, based in La Farge, Wisconsin.

The CROPP cooperative markets Organic Valley eggs. In western-state markets, Organic Valley eggs are produced by Petaluma Egg Farm, an industrial-scale "farmer-member" of the cooperative that appears to afford no legitimate outdoor access to its hens. We believe that the Petaluma Egg Farm henhouses violate the national organic standards for outdoor access.

According to Petaluma Egg Farm, their outdoor access consists solely of "sun porches," and their organic laying hens do not have access to the outdoors beyond these enclosed structures.

CROPP/Organic Valley likewise acknowledges that their "farmer-member in California" (Petaluma Egg Farm) receives an exception from their own standard of 5 square feet per bird of outdoor space, because, as stated on their website, "state veterinarians and the California Department of Agriculture strongly advocate that birds do not have free-range outdoor access because of the risk of Avian Influenza transmission." (see attached screenshot, "OV Transparency")

Yet we know of numerous other organic egg producers throughout the state of California that do provide legitimate outdoor access to their laying hens, including a number of exemplary pasture-based producers. California organic farmers are bound by the same federal organic standards as farmers in the rest of the country.

In response to Cornucopia's initial complaint against Petaluma Egg Farm, CROPP/Organic Valley has suggested that a local Sonoma County ordinance prohibited the birds from going outdoors. However, our research indicates no such local ordinance exists.

Andrew Smith, an agricultural biologist at the Sonoma County Agricultural Commissioner's office, states, "There are no ordinances that prohibit a commercial egg or other poultry producer from letting birds have access to the outdoors. In fact, in some cases it is required to give the birds access to the outdoors." Cree Morgan, a Standards Specialist at the Sonoma County Agricultural Commissioner's Office, similarly responded that he was unaware of any local ordinance or regulations that would prohibit outdoor access for laying hens.

Current organic standards state that organic livestock producers must "establish and maintain living conditions which accommodate the health and natural behavior of animals, **including year-round access for all animals to the outdoors**, shade, shelter, exercise areas, fresh air and direct sunlight suitable to the species" (7 CFR 205.239 (a)(1)) (emphasis added).

We do not believe that enclosed "sun porches" meet either the letter or the intent of the organic rule. And although there is no definition for the term "outdoors" in the NOP standards, we believe that any legally recognizable definition of the term would preclude porches, even if they could accommodate 100% of the flock.

Cornucopia's interpretation of the rule is consistent with the NOSB's clarification of the rule for organic poultry producers, and that was passed by a 12-1 Board vote at their May 2002 meeting. The Board specifically clarified to the organic community that:

1. *Organically managed poultry must have access to the outdoors. Organic livestock facilities shall give poultry **the ability to choose** to be in the housing or outside in the open air and direct sunshine. The producer's organic system plan shall illustrate how the producer will **maximize and encourage access to the outdoors (emphasis added)**.*
2. ***Bare surfaces other than soil (e.g. metal, concrete, wood) do not meet the intent of the National Organic Standards (emphasis added)**.*
3. *The producer of organically managed poultry may, when justified in the organic system plan, provide temporary confinement because of:*
 - a. *Inclement weather;*
 - b. *The stage of production (i.e. sufficient feathering to prevent health problems caused by outside exposure);*
 - c. *Conditions under which the health, safety, or well being of the poultry could be jeopardized;*
 - d. *Risk to soil or water quality.*

Even if Petaluma Egg Farm provides porches with sawdust or other materials to prevent them from being “bare,” this is not enough to meet the intent of the 2002 NOSB guidance or the current organic standards. The 2002 NOSB recommendation clearly states that outside access must consist of soil—simply covering a concrete or wooden porch with sawdust or litter does not meet the intent of the rule.

And again, since the standards require accommodating the natural behavior of the birds, it is unlikely that a sterile substrate would adequately provide chickens the opportunity to exhibit their instinctual foraging behavior.

In addition, because these structures have a roof, depending on the angle of the sun, for most of the day these animals would not have access to “direct sunshine,” as required by law.

Moreover, Organic Valley’s marketing information is highly misleading to consumers who expect their organic eggs to come from hens that were granted adequate outdoor space. Certain webpages on Organic Valley’s website mention their cooperative standard of 5 square feet per bird, but do not mention the exception made for Petaluma Egg Farm (see attached screenshots). And Organic Valley packaging does not clearly state that their California eggs are produced by birds that do not have access to the outdoors.

Consumers in Western markets, therefore, are misled to believe that the eggs they buy came from farmers that complied with both national organic standards and CROPP cooperative standards. Petaluma Egg Farm appears to comply with neither.

We formally request that the Department investigate CROPP/Organic Valley for “willfully” marketing eggs produced on a farm that does not comply with the organic standards. We ask you to please keep The Cornucopia Institute apprised of the status of and progress of your investigation into this complaint.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process cited above.

You may contact us at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Will Fantle". The signature is written in a cursive, flowing style.

Will Fantle
Research Director
The Cornucopia Institute

Attachments: various screenshots taken from www.organicvalley.coop

Grab File Edit Capture Window Help
Organic Valley - Why Organic Valley Eggs?
http://www.organicvalley.coop/products/eggs/why-choose-ov-eggs/
Most Visited Concord, Massachus... Getting Started Latest Headlines Boston.com TinyURL!
Organic Valley - Why Organic V... Farmers.coop - Egg Pool Stand...
Share f t Enter ZIP to find products Search the site
WHO'S YOUR FARMER? PRODUCTS RECIPES WHY ORGANIC? COMMUNITY NEWSROOM ABOUT US
» Products » Eggs » Why Choose Organic Valley Eggs
ORGANIC VALLEY FARMER-OWNED 1617 Owners Strong
WHY CHOOSE OV?
» YOGURT
» SOY
» MILK
» CREAM
» BUTTER
» COTTAGE CHEESE
» SOUR CREAM
» CREAM CHEESE
» CHEESE
» JUICE
» EGGS
Why Choose OV?
Extra Large
EGGS
Our hens really have something to cluck about! Raised on family farms, they have access to the outdoors and plenty of sunshine, fresh air and 100% organic feed. Each strong brown egg is nest-laid—a delicious and dense package of essential vitamins, minerals and proteins. To learn more about our egg program, [visit our Transparency page](#).
PRODUCTS WHY CHOOSE OV?
All brown eggs are NOT created equally.
Sometimes, when people see brown eggs, they assume they're organic eggs, but an egg's color is simply based on the breed of chicken. Organic means much more than brown eggs—and Organic Valley means more than organic. We raise strong, healthy hens that produce high quality eggs.
Find: [input] Next Previous Highlight all Match case
Done
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Access to Outdoors

The National Organic Program (NOP) requires access to outdoors for all livestock with temporary exception due to weather, environmental or health concerns. Our Cooperative standards are stricter with specific requirements for each species. In our egg pool, members are required to provide a minimum of 5 square feet per bird outdoors and to maximize the pasture for the birds.

Farm Materials

We have supported the USDA National Organic Program (NOP)/National Organic Standards Board (NOSB) process for defining farm inputs but at times have disagreed with the final allowance of some materials.

The following materials that are allowed by USDA are not allowed in the CROPP Cooperative program:

Oxytocin—This is a hormone stimulating synthetic that is used widely in milk production to aid in calving and therapeutic uses. Since [hormones](#) are a great concern to us and to our citizen partners, we elected to not allow this "hormone mimicker" in organic milk. We can truthfully tell our consumers our products are "produced without synthetic hormones."

Antibiotics

While antibiotics are not allowed in organic production, their use is encouraged for treating sick animals rather than allow the animal to suffer. If used, the animal cannot return to organic production. Our Cooperative maintains the ability to review members' certification and if we determine that antibiotics are improperly used or an animal is allowed to suffer, that member may be terminated.

