Two wrongs don’t make a right: state and private organic certification in New Zealand dairy

Rebecca L. Schewe
Kellogg Biological Station, Michigan State University, 3700 East Gull Lake Road, Hickory Corners, MI 49060, USA; e-mail: rschewe@msu.edu
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Abstract. The global agrifood system is governed by a wide array of organic labels, certifications, and standards. Many of these labels are private, third-party certifications rather than strictly governmental standards; even many national organic standards such as the United States Department of Agriculture National Organic Program (USDA NOP) are actually a hybridization of state-led and private regulatory schemes. Both state-led and private agricultural regulations raise concerns over their relevance to local environments, consistent and transparent application, and extent of democratic stakeholder involvement. This study compares two organic regulations—the USDA NOP and Demeter International—in New Zealand's dairy industry on these key issues of relevance, consistency, transparency, and democracy. I find that the hybrid state/private regulation of the USDA NOP has replicated weaknesses of both state and private regulatory models: the monolithic and hegemonic nature of state regulation has combined with the lack of consistency, transparency, and democracy of private regulation. By comparison, Demeter International certification uses an international equivalency program to increase democratic stakeholder involvement from farmers and relevance to local environments, but has not fully addressed concerns of consistency and transparency associated with private regulations. By focusing on both the structural aspects of neoliberal regulations and farmers' and processors' lived experience of these disparate regulations, this research expands existing theories of neoliberalization to address the diversity of regulation.

Introduction
In this paper I use a case study of the New Zealand organic dairy industry to analyze the functioning of the United States Department of Agriculture National Organic Program (USDA NOP) for international producers as compared with the Demeter International Biodynamic certification. New Zealand was selected as a national case because of its dramatically neoliberal agricultural policies and its heavy export focus, both of which have increased the variety and significance of market-based agrifood certifications and standards. Examining the functioning of two different USDA-accredited certifiers—BioGro and AsureQuality—I argue that the USDA NOP is a hybrid of state and private regulatory schemes that has failed to address the limitations of either mode of regulation. The current international structure of the USDA NOP raises significant concerns about the lack of democratic input from stakeholders, transparency, consistency, and local relevance of organic regulation. In contrast, the international equivalency program of Demeter International is an alternative regulatory structure with higher levels of democratic participation from farmers and local relevance of organic regulation but still raising concerns about transparency and consistency. Using an extended case study that combines policy analysis and in-depth interviews, in this paper I delve into one reality of neoliberal
regulation of the agrifood system. The findings advance existing theories of neoliberalism by moving beyond the traditional state/private binary to instead focus on the institutional structures of regulation. The difference between the regulations, I argue, is best explained, not by whether the regulation is state versus private, but rather by the structure of regulations themselves: the USDA NOP's reliance on third-party auditors versus Demeter International's use of an international equivalency program. In fact, conventional distinctions of public and private are becoming increasingly insufficient labels as the logic of neoliberalization infiltrates state regulation through structural features such as a reliance on third-party auditors.

Over the past several decades, there has been a shift in development discourse and policy away from models of state-owned industries and high levels of government intervention in the market towards privatized, free-market ideals. This process of neoliberalization—the reintroduction of liberal economic and political theories and policies—has been characterized by a free-trade orientation with ideals of market competition, an ideal of minimal government intervention in markets, privatization of state assets and services, and reduced public expenditures. Within this environment of neoliberalism, market-based regulations and third-party certifications—many with an explicitly environmental focus—have become prominent. In place of government standards and regulations, markets are now policed by a variety of retailer-driven certifications, voluntary best-practice standards such as fair trade and organic, and other non-state-led regulations and standards.

These market-based, nongovernmental, and/or hybrid neoliberal regulations have been particularly prominent within the agrifood sector. Organic regulation, specifically, has garnered significant scholarly and public attention in recent years as consumer and retailer attention has increasingly focused on health, environmental, and social problems of conventional agrifood systems. Regulation and standardization of the organic industry has become increasingly formalized, especially through the rise of government organic regulations and the harmonization of regulations around international standards (Mutersbaugh, 2005). The USDA NOP was created with an explicit regulatory goal of increasing the democracy, consistency, and transparency of organic regulation. Empirical analysis of the application of the regulation, however, shows that the USDA NOP fails to provide these features, while the private standards of Demeter International have created mechanisms to allow democratic input from international stakeholders and local relevance. The USDA NOP plays a significant role in the international regulation of organic production: directly, through enforcement over thousands of producers and processors; indirectly, as a model of international regulatory norms. Shortcomings of this organic regulatory structure raise concerns for the success and legitimacy of organic and alternative agrifood systems more broadly as well as for other new forms of neoliberal, market-based regulations.

This paper is composed of two complementary analytical sections. The first is a policy analysis of the two regulations, the ways that they are created, and their institutional features. In this section I argue that, because of the central role of private third-party certifiers in interpretation and enforcement of the regulation, the current USDA NOP regulation is best understood as a hybrid state/private scheme rather than a strictly state-led regulation. The second analytical section is an analysis of the lived experiences of these regulations as shared by organic dairy farmers and processors. I use qualitative data from interviews with organic dairy farmers and processors to argue that the current USDA NOP regulation undemocratically restricts input from key farmer stakeholders, is not relevant to diverse local contexts, is applied inconsistently, and lacks transparency. I contrast this with data demonstrating the perceived local relevance and stakeholder involvement of Demeter New Zealand certification,
while recognizing that Demeter regulation has not fully addressed concerns of consistency and transparency. In conclusion, I argue that extension of international equivalency programs may address the shortcomings of USDA NOP regulation regarding democracy and local relevance, while not directly addressing problems for transparency and consistency.

Neoliberal agrifood: limitations of private and state regulations
In recent decades neoliberalization has encompassed wide-ranging policy changes as well as significant cultural shifts towards privatized, free-market ideals. Scholars have argued that it is essential to analyze both the significant local variation and the commonalities of neoliberalization and that the process of neoliberalization itself has undergone a major transformation from early ‘roll-back’ neoliberalization into ‘roll-out’ neoliberalization (Brenner et al, 2010; Peck and Tickell, 2002). Neoliberalization is no longer best conceived as deregulation; instead it is a careful process of financialization and the creation and policing of markets. Within the context of neoliberalization, retailers and consumers have come to rely on so-called market-based regulations as tools for standardizing and regulating production. In the agrifood system there is an increasingly important role of retail and private standards as the regulatory leaders in free-trade agriculture (Busch and Bain, 2004). Busch and Bain argue that: “In short, the private sector has jumped ahead of the public sector, substituting consumer demand for citizen demand, market accountability for governmental accountability” (page 335). Private standards have restructured the regulation of the agrifood system and “importantly, the outcomes of these [standards] are not neutral. As competition, production processes, and consumption linkages in the agrifood sector are regulated, new winners and losers will emerge” (page 324).

These nonstate regulatory schemes have been criticized for a lack of transparency, consistency, and democracy. In her theory of the corporate–environmental food regime, Friedmann (2005) argues that: “The key issue, therefore, for food and agriculture, and for reshaping governance at all scales, is democracy” (page 259). She concludes that private regulatory schemes and certifications have reconstituted the citizen into consumer and raise concerns for democratic regulation. Private retailer standards and regulations have been found to lack transparency and exclude stakeholder involvement from farmers (Campbell, 2005; Campbell and Coombes, 1999; Richards et al, 2009). In her critique of three (non-agrifood) certification schemes, Seidman (2007) finds that, despite the best intentions of activists and consumers, private certifications often lack basic compliance and accountability because they do not have institutional and state support. Private standards and regulations raise critical questions of consistency, transparency, and democratic stakeholder representation.

State-led and transnational agrifood regulations have not escaped criticism focused on their one-size-fits-all standards and inflexibility. A paradox of the neoliberal agrifood system is that there has been a rapid expansion in governmental organic standards, such as the USDA NOP, simultaneous with the rise of private standards and market-based certifications. While much of agrifood scholarship has focused on private standards, Guthman’s (2004) critique of California’s organic industry examines the creation and application of US federal organic standards and concludes that the organic industry has inadvertently replicated the problems of the agrifood system it originally purported to solve. Key arguments in the creation of a federal organic standard were the desire for consistency across all producers, clearly defined standards, and strong mechanisms for enforcement and compliance. But Guthman concludes that this enforcement alone does not ensure meaningful compliance with standards because the USDA standards are overly technical and compliance has little social or environmental significance.
These scholars raise important critiques of both private and state regulation regarding democratic stakeholder involvement, consistency, and transparency and I find that these concerns are not addressed by the current international structure of the USDA NOP. Centralized standards have also been criticized for their failure to address local ecosystem variation (Keskitalo et al, 2009) and their lack of local relevance. In their examination of organic certification of Mexican coffee growers, González and Nigh (2005) argue that international standards were irrelevant to local ecological and social environments:

“We should recall that organic standards applied by these foreign organizations were developed based on the experience of farmers in their countries of origin. ... Failure to make [necessary] adjustments places a considerable burden on tropical farmers, who, in order to meet certification standards, sometimes find themselves expending considerable labor on agronomic practices that are not relevant to the local context” (page 453).

Mutersbaugh (2002) has also argued that international standards are not suitable to many local contexts and that there need to be more studies examining how standards are actually enacted in diverse local contexts. Global standards have privileged retailers over producers (Mutersbaugh, 2005) and the proliferation of international standards has not led to their consistent enforcement. Instead, he writes: “This wealth of parallel [regulations] provides standards globalization with momentum, yet also internalizes conflicting elements of standards language. ... In other words, harmonization does not yield homogenous standards” (page 2034). These scholars raise significant critiques of local relevance and consistency of organic regulation and I find similar concerns in the case of New Zealand organic dairy. By comparing two unique regulatory schemes, however, I am able to demonstrate through the case of Demeter International that these shortcomings are not inherent to international certification schemes. Instead, my findings suggest that the use of international equivalency programs can address some of the limitations of centralized standards, particularly problems of local relevance.

**Data and research methods**

This study uses the extended case method to examine both structural and individual phenomena and build on existing theories of neoliberalism and neoliberal regulation. The extended case method uses ethnography placed within larger structural contexts:

“The extended case method thus bursts the conventional limits of participant observation, which stereotypically is restricted to micro and ahistorical sociology. ... We challenge the conventional correspondence between technique and level of analysis and argue that participant observation can examine the macro world through the way the latter shapes and in turn is shaped and conditioned by the micro world, the everyday world of face-to-face interaction” (Burawoy, 1991, page 6).

It is this logic of using the micro to reveal the macro that leads me to focus on the lived experience of producers in order to reveal the structural realities of neoliberal regulations. By using the extended case method, this study simultaneously focuses on the structural and personal levels of neoliberal regulation.

Essentially, I selected the national case of New Zealand for three reasons: (1) as a sample of neoliberal states, (2) because of its large agrarian economy that is export focused, and (3) and because of the proliferation of market-based regulatory schemes within the agrifood sector resulting from the first two factors. While qualitative sampling need not be random or necessarily representative, it should be purposive. The extended case method takes a distinct approach to sampling that emphasizes the importance of preexisting theoretical frames. Rather than defining a population and
drawing a sample that allows generalizability back to this population, the extended case method defines a theory and draws a sample that allows generalizability back to the theory. In this context, I have selected the New Zealand dairy sector because it is anomalously neoliberal, as explained below, and because it offers the potential to fill important silences in the existing literature on neoliberalization through examination of an agrifood sector and by capturing the variation of regulations under neoliberalization.

I selected the national case of New Zealand because New Zealand's agricultural political economy is thoroughly neoliberal and the state has rolled back trade and agricultural subsidies. “No other country in the world has reduced its subsidies to agricultural production to the same extent ... from 34% of gross agricultural revenue in 1984 to almost zero in 1995” (MAF, 1996, page 14). New Zealand is ranked lowest among OECD nations in terms of Producer Subsidy Equivalents and is a founding member of the Cairns Group (Le Heron and Roche, 1999). Even during the very challenging decade of the 1990s when real incomes of agricultural producers continued to decline dramatically and off-farm work became increasingly important to survival, the government refused to reinstitute any form of subsidy system or industry prescriptions. Instead, “actors have increasingly focused on reorganizing activities to meet the requirements of intermediate and end-buyers overseas and in New Zealand” (Le Heron and Roche, 1999, page 207) and have embraced the logic of neoliberalism.

I also selected New Zealand because of its large agrarian economy that offers to extend existing theories of neoliberalism to address the unique agrifood sector. Within New Zealand the dairy industry specifically is an exemplary case because of its rapid growth during and after the challenging period of neoliberal restructuring. New Zealand's dairy industry has grown from a mid-range exporter to the world's largest dairy exporter and home to the largest single dairy cooperative and exporting entity in the world: Fonterra. The agricultural sector has increased its share of GDP since the end of subsidies, from 14.2% in 1986/87 to 16.6% in 1999/2000 (Federated Farmers, 2009). Overall, the national number of farms has held steady at approximately 80,000 since the end of subsidies, and the dairy sector has added nearly 2000 farms since 1986 (Federated Farmers, 2009). The organic dairy industry has also experienced significant growth recently; organic dairy exports generated just under NZ$28 million of export revenue in 2009, a revenue increase of 400% between just 2007 and 2009 (Cooper et al, 2010, page 13). Like the New Zealand agricultural economy generally, New Zealand's dairy sector is heavily export focused, with 95% of all dairy produced in New Zealand exported (Armentano et al, 2004, page 13). New Zealand exported $11 billion worth of dairy products in 2009 and accounts for approximately 35% of the global trade in dairy products (New Zealand Trade and Enterprise, 2010). This large agrarian economy offers an ideal case to examine neoliberalization within the agrifood sector.

Finally, I also selected the New Zealand dairy industry because of the large number and significance of market-based regulations and certifications within the sector. Together, New Zealand's neoliberal agricultural policies and heavy export focus have supported the proliferation of a variety of private market-based regulations in the dairy industry. In a 2005 survey 42% of producers reported using at least one major regulation while 34% reported using two or more schemes; 10% of respondents also indicated a strong intention of incorporating one or more regulations within the next ten years (Fairweather et al, 2007). This makes the New Zealand dairy industry, in particular, an appropriate case to study the social realities of neoliberalism.

My policy analysis relies on data from regulatory documents and publications from the three certifiers (BioGro, AsureQuality, and Demeter), the USDA NOP, and Demeter as well as secondary scholarly sources. For both of the regulatory schemes I used the policy documents to map the central institutional structures of USDA NOP
and Demeter and coded references to: opportunities for democratic involvement, local relevance, transparency, and consistency. These key criteria were drawn from the existing literature reviewed above.

The extended case method logic of using ethnography and lived experiences to reveal the macro (Burawoy, 1991; Miles and Huberman, 1994) led me to focus on the lived experience of certification to reveal the structural realities of neoliberal regulations. To this end, I spent twelve months between June 2008 and June 2009 in New Zealand conducting semistructured interviews with: sixteen organic dairy farmers; executives, staff, and auditors at the three certifiers; experts and leaders in New Zealand’s organic industry; and seven medium-to-large organic dairy processing companies, including Fonterra;(2) as well as attending farm discussion groups. I drew my sample of organic dairy farmers and processors from four sources: the New Zealand directory of Willing Workers on Organic Farms, the online directory of Organic Pathways New Zealand, the online directory of The New Zealand Organic Register, and from contacts provided by the three certifiers and Fonterra. My sample of farms and processors was stratified to represent all three certifiers; the final distribution is shown in figure 1 below. Several of the farms and processors held multiple certifications, and these interviews provided particularly rich data that directly addressed the variation of the certifiers and regulations. Each of the interviews was recorded

Figure 1. Organic dairy farm and processor interviews by certification. [All names are pseudonyms.]

(2) Other organic dairy processors interviewed: Cyclops yogurt, BioFarm/Ecofarm dairy, Whitestone Cheese, Retro Organics, Green Valley Organics, and New Zealand Organic Dairy Farmers Cooperative.
and transcribed. I used both open and closed coding with reference to the key issues of interest: stakeholder involvement, local relevance, transparency, and consistency. I also attended the annual conference of Organics Aotearoa New Zealand (OANZ) that gathers organic certifiers, farmers, activists, government officials, and scientists to discuss the state of New Zealand's organic industry. At the OANZ conference and through one-on-one meetings I shared my findings and conclusions with the farmers, processors, and certifiers interviewed.

Throughout this study, data are limited to the production side of the New Zealand organic dairy commodity system, focusing on the experiences of farmers and processors rather than consumers and retailers. Discussions of democracy and transparency, in particular, might lead to different conclusions if they were expanded to include the consumption side of the commodity system. While this lies outside the scope of this study, there is a growing literature examining the role of consumers and retailers as they engage with market-based standards and organic regulations (for discussion see Lockie and Kitto, 2000; Raynolds, 2002; Rosin and Campbell, 2009).

Case and commodity system background
The dominant production practice of both conventional and organic dairy in New Zealand is management-intensive rotational grazing (MIRG). MIRG involves dividing pastoral land into smaller paddocks and moving livestock amongst the paddocks at determined time intervals. The vast majority of dairy production in New Zealand is also seasonal, meaning that milking is suspended during the winter months. During the winter months approximately 70% of New Zealand dairy farms practice ‘grazing off’—sending their herd off the farm to graze and be cared for by a grazier (Armentano et al, 2004). Graziers are contracted at a fixed rate per animal such as $4 per cow per week; in exchange they provide grazing, some supplemental feed when needed, and basic animal health support through the winter months. Most farms also use graziers to care for their calves, heifers, or any stock that is not currently being milked. Grazing off is sometimes used as a management strategy during times of distress such as floods or droughts when feed is scarce on the home farm.

The dairy industry in New Zealand is dominated by the near monopoly of Fonterra dairy cooperative as a dairy processor. Fonterra is cooperatively owned by 13,000 dairy farmers in New Zealand and processes 95% of all dairy produced in New Zealand (Armentano et al, 2004, page 41). Fonterra is equally monopolistic in New Zealand’s organic dairy commodity system. Out of approximately 100 organic dairy farms throughout New Zealand, 83 currently supply Fonterra (interview, Fonterra executive, 4 April 2010). Although many farmers also supply other organic dairy processors and/or process and market their own products, their market share, while difficult to estimate, is significantly smaller than that of Fonterra. The major export markets for New Zealand organic dairy products are Australia, the United States, Japan, and Korea (Cooper et al, 2010, page 3). In 2009 the domestic market for organic dairy was valued at approximately NZ $13 million, less than half the export value of organic dairy products (page 14).

Fonterra dairy cooperative has a formal Organic Dairy Program that requires supplying organic farms to be certified to the USDA NOP (interview, Fonterra executive, 4 April 2010). Their reliance on the USDA NOP has raised its profile in New Zealand’s organic dairy industry. Fonterra itself holds USDA NOP certification from AsureQuality for its organic processing facilities. Organic farms with valid certifications receive—a premium rate of $0.45 per kg of milk solids during conversion and $1.05 per kg of milk solids at full certification and also have no volume caps, the waiving of regional transport
fees, and free extension services. Because of the limited global consumer market for Demeter-certified products and Demeter’s lack of recognition within major government organic regulations, Fonterra does not recognize farms with Demeter certification or New Zealand domestic organic certifications within its premium program (interview, Fonterra executive, 4 April 2010). This means farms with Demeter certification that wish to supply Fonterra’s organic program and receive a price premium for their milk must get a secondary USDA NOP certification through either AsureQuality or BioGro. The certified organic dairy farms supplying Fonterra are evenly divided between BioGro and AsureQuality as their certifier (interview, Fonterra executive, 28 November 2009). Of the seven organic dairy processing companies interviewed, all except one—including Fonterra—have AsureQuality as their organic certifier. (3) Fonterra’s legitimation of the USDA NOP structurally constrains the regulatory options available to organic dairy producers.

Policy analysis
In this analytical section I introduce USDA NOP regulation and its regulatory goal of increasing consistency and transparency of organic certification, the lack of feedback mechanisms for international producers, and argue that because of its key institutional structure—a reliance on third-party certifiers for enforcement—it is best understood as a hybrid state–private rather than a state regulation. I conclude by contrasting the structural features of the USDA NOP in New Zealand to that of Demeter International whose key institutional structure is an international equivalency program.

The USDA National Organic Program
The creation of the original USDA NOP standards was a long process involving multiple stakeholders in the US organic industry with an explicit goal of increasing consistency and transparency in organic certification—consistency by removing variation amongst different organic certifications and state laws on organic labeling and transparency by formalizing an auditing and certification process. Large organic companies and a fledgling organic industry had a particular interest in the creation of national standards to increase consumer confidence in their products (Guthman, 2004). Ultimately, the USDA NOP formalized a highly technical organic standard and an auditing and enforcement process for certification that promised to offer producers, firms, and consumers consistency and transparency in organic certification (USDA, 2009a).

The USDA NOP standard, once defined, put a feedback and appeals process into place to allow changes to the standard. International producers and certifiers, however, have no formal avenues for input into the content of the USDA NOP. Formal participation is limited to US citizens and US interests through the National Organic Standards Board (NOSB) appointed by the Secretary of Agriculture and to public hearings held by the NOSB (Organic Trade Association, 2006). Farmers and processors, including those outside of the US, also have an appeals process by which they can formally appeal specific issues of compliance and certification; however, these appeals do not have a direct influence on the USDA NOP standard. The USDA NOP can also create equivalency agreements recognizing other national organic standards as functionally equivalent to the USDA NOP. Although many nations, including New Zealand, have their own national organic standards, Canada is currently the only

(3) This is largely related to AsureQuality’s role as the primary food safety auditor for New Zealand. Because AsureQuality performs many other auditing services, processors have also chosen them to provide their organic certification.

(4) Including four farmers, two handlers/processors, one retailer, one scientist, three consumer/public-interest advocates, three environmentalists, and a certifying agent.
nation to have its national organic standard recognized as equivalent to the USDA NOP. New Zealand has applied for equivalency with the USDA NOP through the New Zealand Food Safety Authority (NZFSA) Official Organic Assurance Program but has not been granted equivalency (NZFSA, 2009). In the absence of equivalency programs, international organic producers and certifiers have no direct avenues for input to the USDA NOP.

While the USDA NOP is a national standard created and updated with federal legislation and a federal agency, it is primarily enacted and enforced through independent certifiers. A reliance on third-party certifiers is the key structural feature of the USDA NOP regulation. Third-party certifiers are the prime regulatory and enforcement agents of the USDA NOP since they are responsible for approving the management plans, conversion period, and auditing of organic producers. This is why the USDA NOP is best understood as a hybrid state/private organic standard rather than purely governmental regulation. Within New Zealand, BioGro and AsureQuality are the only certifiers accredited to administer USDA NOP certification. The USDA audits organic certifiers once every five years, ostensibly to ensure compliance and consistent enforcement of the USDA NOP standard (USDA, 2009b). As I will discuss below, however, these audits have not alleviated many contradictions and inconsistencies amongst certifiers, although the USDA has audited both New Zealand certifiers.

BioGro, the first USDA NOP-accredited organic certifier, is a New-Zealand-based organic certifier owned by the New Zealand Biological Producers and Consumers Council (NZBPCC). “BioGro is a not-for-profit organic producer and consumer organisation, actively working to grow organics in New Zealand” (BioGro, 2009) and strongly emphasizes its identity as a social movement organization rather than purely an auditing agency. The membership of NZBPCC elects the board of directors and the staff of BioGro answer directly to this board. The staff cover administration, auditing, technical support, and advisory services for BioGro’s organic certification programs. BioGro is both a standard-setting and auditing organization, meaning that it creates its own domestic organic standards as well as certifying to several external standards such as the USDA NOP.

AsureQuality is the only other USDA NOP-accredited certifier in New Zealand, and it is a very different organization from BioGro. “AsureQuality is a commercial company, 100% owned by the New Zealand government. We provide food safety and biosecurity services to the food and primary production sectors” (AsureQuality Ltd, 2009). AsureQuality is a unique product of New Zealand’s neoliberal restructuring: it is a private corporation; however, the New Zealand government is its only shareholder. Unlike BioGro, AsureQuality is strictly a testing and auditing agency. Organic certification is also only one of many auditing programs including the food safety and biosecurity audits required by the NZFSA.

**Demeter International**

For comparison, I present Demeter certification as a private organic certification. Demeter certification formalizes biodynamic farming principles based upon the teachings of Rudolf Steiner, specifically those taught in his agriculture course in Koberwitz, Poland in 1924 (Demeter International, 2009). Biodynamic farming is a unique component of organic agriculture. The central institutional structure of Demeter certification is its reliance on an international equivalency program. Demeter International has a

(5) NZFSA organic certification also has equivalency with the EU and Japanese standards.
(6) International organic certifiers are accredited either directly by the USDA NOP or through local agencies equivalent to the USDA. The New Zealand Food Safety Authority has USDA recognition to accredit organic certifiers within New Zealand (USDA, 2009b).
specific biodynamic certification standard, but it also recognizes a global network of national and regional Demeter standards through its internal equivalency program. Demeter International currently recognizes the standards of sixteen member associations as well as directly certifying producers in twenty-eight countries without their own national associations. Functionally, each national or regional biodynamic association can create its own Demeter standard and certification process, which is then audited by the International Accreditation Council(7) for equivalency with Demeter International standards. Within New Zealand, members of the biodynamic association have created their own Demeter New Zealand biodynamic standard, which can be updated or altered by officers of their national organization. The key institutional structure of Demeter International, with significant implications for the democracy, local relevance, transparency, and consistency of regulation, is the international equivalency program.

Demeter International has direct avenues for democratic participation of farmer stakeholders in defining the content and application of the organic regulation. All members of the New Zealand Biodynamic Association, including certified farmers, elect national officers who decide the content and application of Demeter New Zealand standards. In turn, New Zealand officers represent the New Zealand Biodynamic Association on the Demeter International Members Association where they can be elected into the working groups that create and alter Demeter International standards and audit equivalency programs (interview, Demeter official, 3 November 2008). The equivalency program of Demeter International allows for direct stakeholder involvement in the regulation.

The lived experience of regulation
In this section I rely primarily on data from interviews with organic dairy farmers, processors, and certifiers. I argue that their lived experience of regulation demonstrates the lack of key stakeholder involvement, local relevance, consistency, and transparency in the USDA NOP. I contrast this to the experience of Demeter farmers and certifiers and argue that the international equivalency program of Demeter allows for democratic involvement and local relevance.

Lack of local relevance, inconsistent application of USDA NOP
New Zealand organic dairy farmers and processors feel like largely passive recipients of the USDA NOP external standard. When a farmer or processor chooses to become USDA NOP certified, he or she is audited and certified to the standard but has no direct avenues for input into the creation or change of the standard’s content. Instead, changes to the standard are made with input from US producers, consumers, and industry representatives through the NOSB and the USDA. NZFSA, BioGro, and AsureQuality also have no direct route to appeal to the USDA or the NOSB to contest or debate the content of the standards, even if they feel they are inappropriate for New Zealand farms. One farmer expressed his frustration with this lack of stakeholder involvement:

“They are American standards based on American circumstances. Like one about nitrogen on farms. They talk about allowing so many kg/ha/annum, and I think it sort of equates to one cow/acre. ... Now I run Jersey cows, and they’re not treating them any different than say a big Friesian cow. ... And also we’re a grass-based, pasture-based system, whereas the US system is based a lot around grain feeding. ... They should be adapting to local conditions here and calling us organic even though we’ve got a different farming system. So, that’s the trouble. We’re having to

(7) Members of the International Accreditation Council are elected from the council of Demeter International. The Demeter International Council consists of members of the national/regional Demeter associations.
meet standards that are based around an American system that are not really that right for NZ conditions.”

Chris, a farmer who has also been an auditor, expressed his feelings of frustration with the external standard that he could not influence and a particular USDA NOP requirement that he felt poorly fit his circumstances:

“I can see it from the regulators’ point of view … so I can see it from that respect. But from a practical point of view it is absolutely ridiculous. And it certainly makes life a lot harder for a farmer. It makes it a lot simpler and clear cut for the auditor. But certainly makes the farmer’s case more difficult. But you know, I think most of the problems that are happening now is because of you damn Americans, and I’ve got nothing to say in all that.”

New Zealand farmers and certifiers feel frustrated and disempowered by the USDA NOP and their inability to influence the standard. There are no avenues for democratic feedback from these stakeholders most directly affected by the content of the regulation. Even the enforcers of the standard, BioGro and AsureQuality, have no direct influence on the content and conditions of the USDA NOP. One auditor says that when the USDA NOP changes,

“Well, that’s not BioGro, that’s an American system, isn’t it? That's not BioGro.”

The hybrid state/private regulation of the USDA NOP has also undermined consistency of the standard because certifiers vary in their interpretations and enforcement. During the 2008 and 2009 dairy seasons large portions of New Zealand experienced periodic droughts and, according to interviews with farmers and certifiers, exceptions to USDA NOP requirements for use of organic feed were granted inconsistently. Because of the drought, many New Zealand dairy farms had to purchase significant amounts of supplementary feed and several organic dairy farmers appealed to their certifiers for an exception allowing the purchase of uncertified feed. They argued there was an insufficient supply of organic feed for sale and that they needed to be able to purchase conventional feed to ensure animal welfare and farm sustainability. According to interviews, the two USDA NOP certifiers took different approaches to granting feed exceptions during the drought. One certifier did not allow exceptions on the use of nonorganic feed until the drought had continued for several months. This certifier believed that an adequate management plan should have addressed the possibility of dryness and that they did not feel that less than several months of dryness met their definition of a natural disaster. In contrast, farmers and certifiers reported that the other certifier granted requested exceptions on a case-by-case, rolling basis. They evaluated stocking rate, soil type, and location to determine which farms they felt had a genuine need for supplementary feed. Many organic farmers and processors, as well as the certifiers, were aware of the different interpretations of the certifiers.

One farmer told me that he got into a fight with a neighboring organic dairy farmer after he received an exemption and the neighbor did not:

“Well he took it very personally that this was the wrong thing to do, and so he went and told everyone … And then we really become an example where they could point to and say ‘look [certifier’s] easier. Their standards aren’t as high.’ It got really ugly and it was just horrible.”

Each certifier acted within the standards of the USDA NOP but came to different conclusions about how to do so. Farmers who had held USDA NOP certification with both certifiers also emphasized differences in animal quarantine requirements, with one certifier requiring more extensive paperwork and longer quarantine times. One farmer said that he transferred certification from one to the other because they would allow

(8) The USDA NOP allows certifiers to use their own judgment to grant exceptions to requirements during natural disasters (Riddle and McEvoy, 2006).
him to use an uncertified maize processor. Several farmers referenced repeated differences in allowing the use of non-USDA NOP certified feed and other moderate inconsistencies in the application of the standard. The hybrid state–private regulation of the USDA NOP has allowed for this type of inconsistency in the application of the standard because regulatory power is decentralized to third-party certifiers. Again, all of these exceptions were permitted under the USDA NOP, but certifiers with different structures and different organizational norms, unsurprisingly, interpret the requirements and spirit of the USDA NOP differently.

Local relevancy and stakeholder involvement in Demeter International
The equivalency program of Demeter International allows for variation amongst national or regional standards to address local concerns and environments. Demeter New Zealand, for example, does not forbid farmers from dehorning young cows (Demeter New Zealand, 2008, page 73), while Demeter United Kingdom has forbidden dehorning on certified farms (Demeter United Kingdom, 2006, page 25). The different local environments are also reflected in the livestock housing standards of Demeter New Zealand and Demeter UK. Demeter New Zealand requires that: “cattle, sheep, horses, deer and goats must have shade and shelter available as necessary. Acceptable forms are hedgerows, orographic shelter (gullies), artificial barriers effective against storm and sun, or individual animal covers” (2008, page 75). The emphasis on natural barriers and shade reflects the more temperate climate of New Zealand and the norm of year-round pastoral management. Demeter United Kingdom, in contrast, assumes that animals will be housed in stables or barns and specifies that: “there must be at least as many feeding/sleeping stalls as there are animals in the stable” and that sleeping stalls must have appropriate bedding (2006, page 24). This standard reflects a colder climate and the local norm of housing livestock for part of the production cycle. Both standards have been granted equivalency by Demeter International and meet basic international requirements while their differences reflect distinct local production norms and environments. The equivalency program of Demeter International allows for this variation so that standards are appropriate to the local production context.

Farmers also have direct stakeholder involvement with creation of Demeter New Zealand standards through the New Zealand Biodynamic Association. If elected, farmers can serve on the Biodynamic Council that creates and updates the Demeter New Zealand standards. One farmer who served on the council said:

“those standards are standards we have written ourselves, but are based on, well they are based on New Zealand practice and on the Demeter International standards.”

The democratic structure of Demeter International allows organic farmers to have direct input, through the Biodynamic Council, into the content and application of national/regional Demeter standards. Farmer stakeholders exercise control over the Demeter New Zealand and those standards are created to reflect the New Zealand farming environment.

Demeter certification does not, however, address all of the key regulatory concerns. The variation of national Demeter standards raises obvious concerns for consistency and transparency of the regulation. Demeter International addresses consistency through its International Accreditation Council which seeks “harmonization of Demeter certification programs: world-wide” (Demeter International, 2009). Through the Accreditation Council member associations define core principles and practices of Demeter International and audit national and regional standards in reference to those core issues. While “national organizations who are members of Demeter International are responsible for Demeter certification in their own countries ... the basis of this certification is the International Demeter Standard” (Demeter International, 2009).
In fact Demeter New Zealand is currently altering its own national standard to comply with the requirements of the Accreditation Council. An official from Demeter New Zealand reported that:

“There will be some small revisions [to Demeter NZ standards] because we had some noncompliances with Demeter International standards at our most recent audit by Demeter International which was middle of last year.”

In this instance the equivalency program functioned ideally: noncompliance was identified during a routine audit and the standard was quickly updated. It seems that Demeter’s equivalency program has developed the regulatory mechanisms to ensure consistency.

However, Demeter International’s equivalency program has not directly addressed problems of transparency and it is not easy for producers and processors to identify variations amongst national and regional standards. Instances of national standards found to be noncompliant are not publicly reported and not all national standards are easily available to international producers and processors or consumers and retailers. The Accreditation Council is supposed to guarantee that the central practices and principles of biodynamic farming are addressed in national and regional standards, but transparency regarding variation of those standards is low.

Discussion
In this study I have offered a structural analysis of two organic regulatory schemes, focusing on how their structures affect their consistent and transparent application, democratic stakeholder involvement from farmers, and relevance to local contexts. I argue that the hybrid model of the USDA NOP enforced through independent certifiers allows for inconsistency, a lack of transparency, and the undemocratic exclusion of important stakeholders—problems theoretically associated with private regulation—while also failing to be relevant to diverse local contexts—a problem theoretically tied to state regulation. Rather than harnessing the advantages of private and public regulation as promised, the current functioning of the hybrid regulation has replicated the shortcomings of both regulatory models. Demeter certification—through reliance on an international equivalency program that allows for diverse national/regional standards—allows for democratic stakeholder involvement from farmers and relevance to local environments, while balancing these with the consistency of a strong reference standard. The equivalency program has not, however, addressed concerns of transparency regarding variation of Demeter standards.

Certification of organic dairy farms in New Zealand raises serious concerns about accountability, transparency, and democracy. The hybrid state/private model of organic regulation fails to meet the demands of either organic consumers or producers and endangers the legitimacy and future of organics. National organic standards were meant to ensure consistency and transparency of regulation, but the current system is failing on both fronts. Instead, enforcement power has been decentralized to certifiers, allowing for significant variation in interpretation and practices. In an attempt to increase consistency, the USDA NOP has sacrificed local relevance, transparency, and democracy but they have also failed to provide consistency. The specificity of technical requirements has not created consistency; rather organic practices and enforcement of standards continue to vary under the USDA NOP, just as they did before the creation of national standards. There may, in fact, be even less transparency under the USDA NOP than with previous multiple standards because a monolithic national standard masks the variety of enforcement that develops in practice. Certifiers make any number of judgment calls and interpretations of the USDA NOP standard; certifiers serve as interpreters and guides for widely diverse producers. But within the
USDA NOP the compromises and decisions of certifiers are invisible to consumers and also largely invisible to farmers. The USDA NOP as it is currently practiced lacks consistency and transparency.

The current form of the USDA NOP also inhibits democratic involvement of some key stakeholders—namely, international producers and certifying bodies—in the creation and application of the standard. Producers and processors take agency in the decision to pursue USDA NOP certification and to access the US organic consumer market, but once that decision is made there are no feedback mechanisms for international producers and certifiers to participate in the development of the standard. New Zealand is a highly developed, industrialized democracy and holds a privileged position in the world system. It is also a large agricultural exporter and a key supplier of agricultural commodities globally. If even in their privileged position New Zealand dairy producers and processors are disempowered and frustrated by the USDA NOP, there are serious concerns about how agricultural communities in less developed nations might engage with the standard. The current application of the USDA NOP does not democratically engage with stakeholders outside of the US or with agencies representing them. International producers are not just shut off from input in the US standard, democratic participation in their own national standards becomes irrelevant when the USDA NOP fails to employ equivalency programs. The hybrid state–private regulation has replicated the weaknesses of both the state and private regulatory models: the monolithic and hegemonic nature of state regulation combined with the lack of transparency, consistency, and democracy of private regulation. The failure of this hybrid regulation is a case of two wrongs—the shortcomings of private and state-led regulation—not making a right. This neoliberal version of government regulation is not addressing the concerns of either organic consumers or producers and has failed to deliver the promised reforms of national organic standards. These shortcomings have serious implications for the future legitimacy and proliferation of organics.

But this is not just a story of failure and disappointments. It is also a story of lessons to learn from Demeter International as an international equivalency program. Demeter International has shown that it is possible to maintain the integrity of a central standard while recognizing the equivalency of other standards. Demeter balances demands for democracy and local relevance with demands for consistency through an international equivalency program that allows New Zealand or other international producers to be directly involved in creating and altering their standards while still emphasizing the core principles of practices of the Demeter International standard. Allowing national variation has not diminished the importance of the reference standard. However, Demeter International’s equivalency program does have a concerning lack of transparency regarding variation and diversity of standards.

Even the monolithic USDA NOP does not have to function as it is currently operating in New Zealand. The regulation was created with the potential to operate quite differently through use of organic equivalency agreements. The USDA NOP can enter into equivalency agreements with other national bodies and recognize other national organic standards as functionally equivalent to theirs, allowing them to use the USDA organic label for their imported products. Equivalency agreements were designed to function very similarly to the Demeter certification. In practice, however, the USDA has granted organic equivalency only to Canada, despite the development of several other national organic standards including those of New Zealand and Australia. Equivalency programs have the potential to address the current lack of international stakeholder participation if organic producers can engage with national standards and the USDA is willing to recognize those standards. Extending equivalency agreements through bilateral or multilateral agreements with exporting nations
would allow international stakeholders to be more actively engaged in the creation and alteration of their governing regulations. Specific local and national concerns could be more directly addressed by national standards created in the local context rather than the hegemonic application of the USDA NOP. They could also address some of the ecological concerns with uniformly applying a standard in diverse environments (González and Nigh, 2005; Keskitalo et al, 2009). The European Union’s (EU) regulation of organic certification may provide a model for government equivalency programs. Currently, EU organic regulation relies on an equivalency program in which member states create their own organic standards and those standards are audited for compliance with minimum EU standards, not dissimilar to Demeter International certification (for discussion see Dabbert et al, 2004; Stolze and Lampkin, 2009). Equivalency agreements, however, do pose potential concerns for diminishing transparency and mechanisms to share information would need to be in place (Bowen, 2004). While the USDA NOP has only one equivalency agreement in place, the structure of the legislation does hold the potential for more of these agreements to be enacted, increasing democratic engagement with organic regulation and more appropriate local standards.

Conclusion
The complexity and variation of environmental certification under BioGro, AsureQuality, and Demeter New Zealand confirm theoretical assertions that neoliberalization is not a homogenous process. Guthman argues “underspecification as to the character of neoliberalization, its agents, its coherence, and its casual powers ... has rendered it less useful as a tool of explanation. ... Because these processes are always and everywhere contingent, contradictory, and unfinished” (2008, page 1173). I have attempted to answer this call for specificity and historicity in an examination of neoliberal regulation within a particular sector. The USDA NOP and its hybrid state–private regulation show how the boundaries between the social institutions of the state and market are being dramatically redrawn in roll-out neoliberalization (Peck and Tickell, 2002). The democratic structure and equivalency program of Demeter International show that some of the shortcomings and limitations of private regulation are not inherent. The reality of public and private regulation is uneven and contextual, and scholars and social scientists must avoid the temptation to reify the neoliberal assumptions that market and state can be clearly defined. Instead, by examining the complexity and inconsistency of specific regulatory schemes, we can expand our conceptions of the public and private and remember that neoliberalization is not ahistorical.

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References


Campbell H, 2005, “The rise and fall of EurepGAP: European (re)invention of colonial food relations?” International Journal of Sociology of Agriculture and Food 13(2) 15 – 34

Campbell H, Coombes B, 1999, “Green protectionism and organic food exporting from New Zealand: crisis experiments in the breakdown of Fordist trade and agricultural policies” Rural Sociology 64 302 – 319


Demeter International, 2009, “This is Demeter”, http://www.demeter.net/


Le Heron R, Roche M, 1999, “Rapid reregulation, agricultural restructuring, and the reimaging of agriculture in New Zealand” Rural Sociology 64 203 – 218

Lockie S, Kitto S, 2000, “Beyond the farm gate: production-consumption networks and agri-food research” Sociologia Ruralis 40 3 – 19


Miles M B, Huberman M, 1994 Qualitative Data Analysis: An Expanded Sourcebook 2nd edition (Sage, New York)

Mutersbaugh T, 2002, “The number is the beast: a political economy of organic-coffee certification and producer unionism” Environment and Planning A 34 1165 – 1184


Richards C, Bjørkhaug H, Lawrence G, 2009, “Agrifood restructuring through quality assurance: proprietary and hybrid governance of the food supply chain in Australia and Europe”, paper presented at Agrifood XVI, University of Auckland; copy available from G Lawrence, School of Social Science, University of Queensland, St Lucia


Stolze M, Lampkin N, 2009, “Policy for organic farming: rationale and concepts” Food Policy 34 237 – 244


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