

Mark Bradley, Associate Deputy Administrator  
USDA-AMS-TMP-NOP  
Room 4008-South Building  
1400 Independence Avenue, SW  
Washington, DC 20250-0020

Comments on: Docket TM- 06-06-PR

Dear Mark,

The Northeast Organic Dairy Producers Alliance (NODPA), the Midwest Organic Dairy Producers Association (MODPA), and the Western Organic Dairy Producers Alliance (WODPA) would like to express our appreciation to the NOP for confirming that dairy producers in the process of transitioning their farms who start their one year herd transition prior to June 9<sup>th</sup>, 2006 will be able to use the 80/20 feed provision. Having that clearly stated puts the minds of many transitioning producers at ease to know that their transition course can proceed as planned. Thank you.

We also applaud the retention of the last third of gestation requirement for dairy replacement animals. However, the revised wording engenders many questions and loopholes and we respectfully request a change to the following wording and formatting:

§ 205.236 Origin of livestock.

(a) \*\*\*

(2) *Dairy animals - conversion of herds.* Milk or milk products must be from animals that have been under continuous organic management beginning no later than 1 year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic, Except, That, crops and forage from land, included in the organic system plan of a dairy farm, that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products.

(3) *Dairy animals - replacement stock.* Once an operation has been certified for organic dairy production, all dairy animals, including all young stock whether subsequently born on or brought onto the operation, shall be under organic management from the last third of gestation prior to the animal's birth.

(4) *Breeder stock.* \*\*\*

NODPA supports the wording in NOP's revised (2), but requests the addition of two commas in order to exclude the interpretation that anything other than third year transition (or certified) crops could be fed to dairy animals during the year of herd transition. Without the commas, the sentence could mean that as long as the farm is in the third year of organic management, that any feeds on the farm—whether first or second year transition crops or even leftover conventional feeds—could be fed during the herd transition. This certainly was never the intent of the OFPA amendment and would

be fully contrary to long standing practice and expectations and was an oversight in the crafting of the wording / punctuation of the amendment.

We ask that the current (3) on breeder stock be changed to (4) to allow (3) to become a section devoted to dairy replacement requirements on already certified farms. There must be one standard for all dairy operations, not the current dual track. Quotes from the preamble of the 2002 rule show crystal clear intent for the last third of gestation requirement on all certified dairy operations:

**“After the dairy operation has been certified, animals brought on to the operation must be organically raised from the last third of gestation....The conversion provision also rewards producers for raising their own replacement animals while still allowing for the introduction of animals from off the farm that were organically raised from the last third of gestation. This should protect existing markets for organically raised heifers while not discriminating against closed herd operations. Finally, the conversion provision cannot be used routinely to bring nonorganically raised animals into an organic operation. It is a one-time opportunity for producers working with a certifying agent to implement a conversion strategy for an established, discrete dairy herd in conjunction with the land resources that sustain it.”**

The above (3) has been vetted by an extensive number of minds who looked at the wording from all possible angles to ensure that it is absolutely clear, non-ambiguous, and applicable to all dairy operations once certified. Ensuring one same standard for replacements for all dairy operations fulfills the stated purpose of OFPA-- “to assure consumers that organically produced products meet a consistent standard”.

The NOP proposed rule wording specifies that “Once an entire, distinct herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.” This leaves the door wide open for any operation that does not “convert” an “entire, distinct herd”--appearing to still allow ‘heifer ranches’ to buy or raise conventional youngstock, raise them under organic management for a year and then sell them as certified organic dairy animals; allowing split operations or those who claim to have not converted an “entire, distinct herd” to not fall under the last third requirement; and not covering operations who have not “converted” animals but rather started with already transitioned or certified organic animals.

Without a consistent standard requiring last third of gestation for all dairy replacements on certified operations, animals raised conventionally for likely the first year of life will continuously be brought onto some operations. This puts all the organic dairy farms that are raising all of their youngstock organically at severe economic disadvantage because it is much more costly to feed calves organic milk than conventional milk replacer or milk and more costly to feed the youngstock certified organic feeds during the first year of life rather than conventionally grown feeds. Being able to raise the conventional youngstock with the whole arsenal of antibiotics, drugs, parasiticides, ionophores and other growth promoters, etc. allowed in the conventional production, means a very unlevel playing field.

Conventional youngstock being brought onto operations also belies the trust of organic dairy consumers who expect that organic milk is coming from animals that have not been treated with antibiotics or other prohibited substances nor fed genetically modified or other prohibited feeds. 'No antibiotics' was the top concern of organic dairy consumers in the Natural Marketing Institute survey reported at the recent NOP Pasture Symposium and organic dairy products were noted as being keystone products for consumer confidence and a major steppingstone to additional purchases in other organic categories.

The allowance for continual conversion of conventional animals also damages the market for organic youngstock through reduced market demand and lower prices for organic dairy animals. This has been the experience of many organic dairy producers who have sold excess organic calves and even some organic herds into the conventional dairy market because there was no demand or premium price for the certified animals.

We appreciate the hard work on the part of the NOP that is involved in any rule change and we urge the NOP to make the revisions necessary to produce a final regulation that is crystal clear, without multiple interpretations, ambiguity, or dual standards. It will save much confusion, unfairness, and future work to take a careful approach now to close all the loopholes and ensure one standard that requires that all dairy replacement animals are under organic management on all operations, once certified for organic dairy production.

Thank you for your attention to public comment and for all your efforts.

Respectfully,

Steve Morrison, President  
Northeast Organic Dairy Producers Alliance

Steve Pechacek, President  
Midwest Organic Dairy Producers Association

Ward Burroughs, Acting Chair  
Western Organic Dairy Producers Alliance

P.S. We have become aware of the NOP statement just issued yesterday saying that the NOP will be initiating an ANPR on dairy replacement livestock. An ANPR will undoubtedly mean a minimum of two years to do 3 Federal register notices--a much too extended time process for a problem that has gone on far too long already. If the NOP is not willing to fix the two track system with the current rule change, then please proceed to immediate rulemaking, with a proposed rule as the first step based on the comment you are receiving at this time, along with the NOSB recommendations already on the books.