

March 24, 2006

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

Dear Barbara and Mark,

As you are aware, there is considerable interest and concern regarding outcome of the court-ordered changes to the NOP regulations regarding dairy herd transition and origin of livestock. In addition, the recent change to OFPA has impact on the needed regulatory changes.

Farmers who are currently raising young animals for use as replacement stock in dairy operations, farmers who are in conversion to organic dairy production, and those that have already converted need clarification on what the rules will be after June, when the Court mandated change in feed requirements must occur.

As representatives of certification agencies charged with verifying that the regulations are met, as farmers who must meet these regulations, and as other members of the dairy industry, we would like to offer some suggestions regarding how these necessary changes can be made. Our objective is to preserve, clarify, and improve the existing regulations so that all producers are subject to a uniform standard.

The following suggestion is based on the NOSB recommendation for a regulatory change of May 14, 2003, modified to remove the 80/20 provision and includes the new language from Congress.

**§ 205.236 Origin of livestock.**

(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, ~~when an entire, distinct herd is converted to organic production, the producer may:~~

~~(i) For the first 9 months of the year, provide a minimum of 80 percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and~~

~~(ii) provide feed in compliance with § 205.237 for the final 3 months.~~

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.

~~(iii)~~(3) Dairy animals – replacement stock. Once a dairy operation ~~an entire distinct, herd~~ has been converted to organic production, all dairy animals (including young stock) shall be under organic management from the last third of gestation.<sup>1</sup>

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<sup>1</sup> Comment: This use of the term “operation” rather than “entire distinct herd” reflects the language of the preamble and reinforces that this is a one-time herd conversion allowance, per certified entity. The requirement should apply to all replacement animals, whether purchased, leased, or born on the farm; either as young or older stock, and regardless of when or how the operation transitioned to organic production.

As the NOSB noted in their recommendation, this regulatory language supports the clear intent of the regulation as stated in the preamble on page 80570:

“After the dairy operation has been certified, animals brought on to the operation must be organically raised from the last third of gestation. ... 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 requirement for replacement animals to be managed organically from last third of gestation is supported and used as a criteria for certification by the large majority of agencies, including NOFA-NY, PCO, MOFGA, MOSA, Stellar, Oregon Tilth and VOF, who currently certify **891 dairy farms**, with approximately another **140 farms in transition**.

We believe that the allowance for conversion of non-organic animals should be permitted only for initial herd conversion, to provide fair access to organic production to all who wish to convert. After initial conversion, we believe it is consistent with consumer expectations and basic organic principles to require organic management of young animals, produced either on or off the dairy farm.

As you are aware, young dairy animals begin their first lactation at approximately 24 months of age. Allowing the continual importation of non-organic replacements will mean that these animals, imported at least 12 months prior to producing milk, could be fed for the first half of their lives, or longer, with genetically engineered crops, treated with antibiotics and hormones, and fed slaughter by-products. This is contrary to all consumer expectations, and could negatively affect the demand for organic milk, which would harm all organic producers.

The requirement for organic young stock will support the existing market for organic heifers, and organic feed. Allowance of non-organic animals could set a precedent to allow young stock to be managed non-organically on farm as a split operation. This will create continuing record keeping burdens and make verification of appropriate management extremely difficult. It will also decrease the supply of organic slaughter animals from dairy culls, and make tracking these animals more complex.

There is currently much confusion in the organic dairy world concerning what the regulations will allow for replacement animals after June. This proposed path is simple, and will be clear to producers and regulators. It should help foster the growth of organic dairy by providing a level playing field for all producers, and provide opportunities for the farms that specialize in raising young organic dairy stock and livestock feed. It is already the current practice for a large majority of organic producers.

Thank you for your consideration and for your dedication and work on these issues.

Sincerely,

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