



National Milk Producers Federation

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December 2, 2019

National Organic Program
USDA-AMS-NOP
Room 2642-So, Ag Stop 0268
1400 Independence Ave SW
Washington, DC 20250-0268

RE: Docket Number AMS-NOP-11-0009; NOP-11-04PR -National Organic Program;
Origin of Livestock

Dear Sir/Madam:

The National Milk Producers Federation (NMPF) is pleased to submit the following comments to the USDA Agricultural Marketing Service's National Organic Program. The National Milk Producers Federation, established in 1916 and based in Arlington, VA, develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of dairy producers on Capitol Hill and with government agencies like USDA. NMPF provides a forum through which dairy farmers and their cooperatives formulate policy on national issues that affect milk production and marketing.

Many of our member cooperatives and their dairy farmers are producing or have expressed an interest in producing organic milk. In addition, many of the manufacturing facilities owned by NMPF members are processing or have expressed an interest in manufacturing organic dairy products. Therefore, this proposed rule is of great interest to us and our members.

NMPF is supportive of the current amended Organic Foods Production Act of 1990 and the foundation it has laid for the National Organic Program. We strongly believe that it has properly outlined the parameters in which dairy farms can and can't transition their animals in to organic production and provided enough flexibility to ensure that there is a consistent, quality supply of breeder stock for organic farmers.

This proposed rule appears to:

1. Specify that once a transition into organic production is complete, that a producer would not be allowed to conduct any additional transitions;
2. Once the transition is completed, the producer would only be able to expand the number of dairy animals or replace culled dairy animals on any dairy farm by either adding animals that are in no later than the last third of gestation, or adding

transitioned dairy animals that had already completed the transition on another dairy farm during that producer's one-time transition.

We disagree with item #1 above which we believe goes beyond what Congress intended and significantly treads upon producers' constitutional rights on many levels. If USDA retains such a limitation, we believe there will be a legal challenge which USDA will not be able to win.

AMS states they are attempting to create greater consistency in the implementation of the standard for the transition of dairy animals in to organic production. Limiting a producer to a single 12-month transition will be detrimental to the organic dairy industry and could potentially, prevent growth of the number of organic dairy farms. For example, if a single producer owned two distinct farms, and decided to transition only one farm, he would no longer be eligible to transition the second farm under this proposed rule. And while a producer could transition both farms at the same time, it could increase the risk of having lesser quality dairy production as a farmer would be spread thin attempting to handle both transitions. Handling one transition at a time is the most sensible idea for dairy farmers moving from conventional to organic given the amount of changes that must be made and allows them to apply the knowledge they gained from the first transition to the next. Tying the transition to a single producer wouldn't strengthen the integrity of the organic program and may potentially weaken it.

Organic milk sales have continued to increase over the years, creating a need for more organic fluid milk. There have been instances in the past where organic milk wasn't even available to consumers because there wasn't enough organic milk to fill the store shelves. Given the nutritional benefits of dairy, this is harmful to families in the United States, and could potentially cause them to give up milk all together. Limiting the one-time transition to a single producer could further exacerbate this problem as fewer farms would be able to become organic which is the opposite of what the organic program should want. As Cropp Cooperative pointed out in their 2015 comments:

The following are examples of unintended consequences:

- A certified organic dairy farmer chooses to move from his/her current location to another location by selling his existing farm and purchasing a conventional farm. He/she had a one-time transition and is blocked from transitioning a new herd to populate that farm.
- A producer stops farming, sells his/her herd, and surrenders their organic certificate. He/she subsequently wishes to go back to farming but cannot transition a herd since he did so previously.

In both of the above examples we believe the producer should be allowed to return to organic farming.

As a way to maintain the integrity of the National Organic Program (NOP) and maintain consumer trust, we believe a stronger option, would be limiting the one-time 12-month transition to a single dairy operation. We believe, as others have stated, the language around the one-time transition should be linked to the "certified dairy operation" as opposed to the "producer." A certified operation and its individual organic system plan is the basis of organic compliance and is how the organic certification process works today. This would then allow the aforementioned producer with two farms to transition both of his dairy operations to organic at different times regardless of how their business is structured.

With respect to breeder stock, the Organic Food Production Act (OFPA) §6509 states “Animal production practices and materials (b) Breeder stock Breeder stock may be purchased from any source if such stock is not in the last third of gestation.”

NMPF is supportive of maintaining the stipulation that is already in the Act which states that additional animals, for example, breeder stock, must come from dairy animals that had been under continuous organic management for the last third of gestation or cows that had already completed the transition on another dairy farm. Dairy farmers need to have to access to replacement heifers to ensure that their farm is performing at the highest level. If organic producers don't have breeder stock or replacement heifers readily available, they will be forced to keep lower-performing animals in their herd which could produce lower quality milk or pass on poor genetics. Continuing to allow organic dairy producers access to breeder stock with the only requirement being that they need to be under organic management for the last three months of gestation helps ensure that organic dairy producers aren't stagnated by this issue. We also concur that the regulatory provision that prohibits cycling in and out of organic production does not extend to nonorganic breeder stock that are not themselves certified organic or eligible for slaughter, sale and labeling as organic. In essence, the nonorganic breeding stock (prior to and after gestation) is never an organic animal despite being organically maintained for three plus months while the calf it is carrying is finished growing and birthed. It is clear that if the breeder stock never transitioned to organic there is no cycling, the cow was and remains nonorganic. If there is no cycling, there is no violation of the one-time transition rule. Further, a calf born under the conditions specified in the OFPA, will have been organically managed for the last third of its gestation plus another two or so years prior to it being milked – far longer than milk that came from a herd that went through a 12-month transition – so it is difficult to understand why some find this Congressionally mandated practice unacceptable.

We recognize that there is a segment that want organic milk to come only from cows that were gestated in organic breeder stock. Unfortunately, that is contrary to the precise language OFPA which says, “any source.” Should advocates of that position want that changed they need to work with members of Congress to secure it. That said, Congress making that change would level the playing field and end having different results and different costs depending on which certifier approved the practice. But an easier approach to leveling the playing field is to make it abundantly clear when finalizing this regulation that milk from a cow that was managed organically in the last third of it's gestation results

in that offspring producing organic milk when that cow is maintained according to the organic programs requirements.

In conclusion, NMPF and many others in the organic industry are not supportive of changing the rule to only allow one transition to organic per producer as this would be overly restrictive and unnecessary. Organic crop farmers can transition land continually and organic dairy farmers shouldn't be subjected to limitations which would prevent them from doing the same. Our dairy farmers deserve the ability to choose if and when, and how many farms they would like to transition to organic, particularly because preventing them from doing this only hinders the organic program instead of strengthening it.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay Detlefsen". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Clay Detlefsen, Esq.
Senior Vice President and Staff Counsel