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Ohio Ecological Food and Farm Association  
Organic Seed Alliance  
PCC Community Markets  
Rural Advancement Foundation International -USA

February 9, 2019

U.S. Secretary of Agriculture Sonny Perdue  
Department of Agriculture  
Whitten Building  
1400 Independence Avenue SW  
Washington, DC 20250

RE: National Organic Program: Origin of Livestock Regulation

Dear Mr. Secretary,

The National Organic Coalition is a national alliance of organizations representing the full spectrum of stakeholders with an interest in organic agriculture, including farmers, ranchers, conservationists, consumers, retailers, certifying agents, and organic industry members. NOC seeks to advance organic agriculture and ensure a united voice for organic integrity, which means strong, enforceable, and continuously improved standards to maximize the multiple health, environmental, and economic benefits that organic agriculture provides. NOC operates by consensus, so issues we bring to you and Congress have been fully vetted across the various stakeholder groups represented in our coalition.

We are writing to you to express our concern about the lack of consistency in how the Origin of Livestock regulations for transitioning dairy cows into organic production are being interpreted. As we describe in further detail below, we are requesting that you move swiftly to put Origin of Livestock back on the regulatory agenda to provide clarity and consistency in the organic regulations and to ensure fairness across operations and certifiers.

One of the central tenets of the Organic Foods Production Act (OFPA) is to assure consumers that organically produced products meet a consistent standard. To achieve that goal, OFPA laid out basic parameters and guidelines for organic production, handling, and certification, and gave the Secretary of Agriculture broad rulemaking authority to flesh out the details.

At times, the original OFPA regulations have created inadvertent loopholes that require further regulatory updates to achieve a consistent standard. One such area is the rule regarding the Origin of Livestock. We are seeking regulatory action by USDA to address this inconsistency, which is undermining consumer confidence and organic dairy farmer viability.



The current rule for origin of dairy livestock is being interpreted by certifiers in two ways, which is creating a confusing two-track system for conversion of conventional dairy animals to organic. One track allows a whole dairy herd to be converted to organic over a 12-month period, but thereafter prohibits further transitioning of conventional animals to organic production. Instead animals added to the dairy herd after the one-time transition must be managed as organic from the last third of gestation. We believe this interpretation is clear in Section 205.236 (a)(2)(iii) of the organic regulations, which states that:

“Once an entire, distinct herd has been converted to organic production, all animals shall be under continuous organic management for the last third of gestation.”

This interpretation is also reinforced by the preamble of the December 21, 2000 Federal Register National Organic Program Final Rule, which states:

“Finally, the conversion provision cannot be used to routinely 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. (See printed page 80570 linked [here.](#))

The other track, as interpreted by some certifiers, allows dairy operations that did not use the one-time conversion to transition dairy animals continuously into organic over time, using a 12-month conversion period for each animal transitioned. We view this interpretation to be inconsistent with the Preamble to the NOP Final Rule.

In July 2013, the USDA Office of Inspector General (OIG) published an [audit report on organic milk operations](#) stating that certifying agents were interpreting the Origin of Livestock requirements differently. According to the OIG report, three of the six certifiers interviewed by OIG allowed producers to continuously transition additional herds to organic milk production, while the other three certifiers did not permit this practice. OIG recommended that a proposed rule be issued to clarify the standard and ensure that all certifiers consistently apply and enforce the Origin of Livestock requirements.

In April of 2015, USDA’s National Organic Program (NOP) published a proposed rule to clarify and reinforce the requirement that the conversion of a conventional herd to organic was a one-time allowance per farm. But that rule was never finalized by the Obama Administration, and has been completely removed from the regulatory agenda by the current Administration.

Because of the lack of consistency between certifiers in enforcing the Origin of Livestock rule, dairy farmers who are using the “last third of gestation” rule for organic dairy cows are being put at a significant economic disadvantage relative to those who are bringing in conventional cows, managing them as organic for a year and then adding them to their organic herd. The continuous



conversion route is much cheaper for the farmer, and makes it easier to increase milk production quickly, contributing to the oversupply and low milk price conditions all organic dairy farmers are now experiencing. Reestablishing one clear standard will allow dairy operations of all scales to compete fairly on a level playing field.

An additional problem with the current standards for origin of dairy livestock is that the one-time herd transition can be abused by allowing one legal entity to transition a dairy herd and then turn around and sell those animals to another legally separate—but financially connected—entity.

Because of the widespread disruption in organic dairy markets caused by the inconsistent standards, the National Organic Standards Board passed a unanimous resolution at their fall 2018 meeting urging the Secretary:

“... To directly issue a final rule for Origin of Livestock that incorporates public comments submitted in response to the Proposed Rule (Docket Number AMS-NOP-11-0009).”

Therefore, we are urging the National Organic Program to put the matter of Origin of Livestock back on the regulatory agenda, and move expeditiously toward publication of a rule to clarify that:

- 1) the 12-month conversion of conventional bovine dairy livestock to organic production is a one-time allowance per operation; and,
- 2) after that conversion, all livestock on the operation from which milk is produced and sold as organic must be managed as organic from the last third of gestation; and,
- 3) no livestock transitioned using the 12-month transition process may be sold as organic to other operations or for slaughter; and,
- 4) once a cow managed as organic for the last third of gestation gives birth to a heifer calf, that calf must be managed as organic continuously for it to be considered an organic cow.

We look forward to working with you in support of this rulemaking to help restore a consistent organic standard for origin of dairy livestock.



On behalf of National Organic Coalition members,

A handwritten signature in black ink that reads "Abby Youngblood". The script is fluid and cursive.

Abby Youngblood  
Executive Director  
National Organic Coalition

A handwritten signature in black ink that reads "Steve D. Etko". The script is fluid and cursive.

Steve Etko  
Policy Director  
National Organic Coalition

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Cc: Gregory Ibach, Undersecretary for Marketing and Regulatory Programs; Jennifer Tucker, Deputy Administrator, USDA National Organic Program