**Origin of Livestock – Next Steps**

On December 17th 2018, NODPA sent the letter below to the Secretary of Agriculture. NODPA is working with other groups to petition the Secretary to return the Origin of Livestock rulemaking process to the NOP 2019 work agenda. One of the attachments about the economic effect of the lack of rulemaking is attached. The other attachments that went to the Secretary were a condensed history of the regulation and a summary of the Inspector General’s report.

The Honorable Sonny Perdue

Secretary

U.S. Department of Agriculture

1400 Independence Avenue SW

Washington, D.C. 20250

Dear Secretary Perdue,

The Northeast Organic Dairy Producers Alliance (NODPA) is alarmed that the current Origin of Livestock standards are creating unfair and inconsistent interpretations of the standards and unpredictable implementation by certifiers across the country. We respectfully ask that USDA prioritizes implementation of an Origin of Livestock Final Rule. To accomplish this goal, we ask the Secretary to work with the National Organic Program (NOP) to immediately place the Origin of Livestock Final Rule on the work agenda for 2019 and immediately issue Guidance on the interpretation of the one–time transition provision based on the 2015 Proposed Rule.

The current rule is inhibiting the National Organic Program’s ability to provide sufficient enforcement to ensure that our nation’s organic animal standards are fair and consistent. The effect of this is market instability which could lead to a lack of consumer confidence in the domestic organic dairy industry.

NODPA has a membership of eight hundred and thirty six organic dairy producers in the Eastern US. NODPA’s mission is to “**enable organic dairy family farmers, situated across an extensive area, to have informed discussion about matters critical to the well being of the organic dairy industry as a whole**.” NODPA is not aligned with any one processor or cooperative and represents the views and needs of many different farmers.

Our dairy farmer members have seen inequities in the enforcement of regulation for dairies around the issue of the Origin of Livestock. They believe they can compete with the most efficient organic dairy producers if they are treated equitably. The Office of Inspector General (OIG) report supports their fears and concerns. The organic dairy industry lacks a clear uniform national standard for Origin of Livestock, a concept that is at the core of the creation of the Organic Food Production Act and the National Organic Program.

As you well understand, regulations must be enforced in a uniform and consistent manner to ensure all industry participants are competing on a level playing field. That is not the case of the current organic dairy industry. Our certified organic farmers continually declare organic integrity as their number one policy priority and wish to see a fair and consistent interpretation of the origin of livestock standard—through clarity in the standards.

USDA’s Office of Inspector General audit confirmed that certain segments of the organic dairy industry are being treated differently than other segments and that certifiers are interpreting the standards for origin of livestock very differently. (See attachments)

We ask that USDA fix those inequities by publishing an Origin of Livestock Final Rule based on the 2015 Proposed Rule and the comments received on that Proposed Rule. We support the Organic Farmers Association Origin of Livestock policy position on this issue. We ask the Secretary to work with the National Organic Program to immediately issue Guidance on the interpretation of the one–time transition provision.

We support a policy that clearly states that the provision for transitioning conventional cows to organic in one year is a one-time allowance and continuous transition of conventional livestock is not permitted.This language is not controversial and mirrors language first published in the 2015 Proposed Rule. It also mirrors the language in the preamble of the rule further supporting this interpretation. This would put organic dairy on the same level as all other organic commodities, would stop the fraud and confusion existing within the organic dairy industry, would stop continual transition of non-organic dairy heifers, would open the market for certified organic replacement animals, and would ensure that all US-based and international-based certifiers are using the same standards.

NODPA supports the inclusion of the following in the Final Origin of Livestock Rule:

1. A producer as defined by USDA NOP may transition bovine dairy animals into organic production only once.

2. A producer is eligible for this transition only if they convert an entire established non-organic dairy operation to organic production at the same geographic location within a defined 12 month period. Once that transitioned has started, other non-organically certified animals cannot be added to the herd.

3. This transition must occur over a continuous 12-month period prior to production of milk or milk products that are to be sold, labeled, or represented as organic.

4. A producer must not transition any new bovine dairy animals into organic production after the end of the 12 month transition period.

5. A producer is not eligible for the exemption if it has been used by a Responsibly Connected person who has a 20% or more ownership share in their legal entity.

6. The certifying entity will file an organic system plan prior to the start of transition and the transition process is overseen by the certifier as part of their accountability.

7. Transitioned animals must not be sold, labeled, or represented as organic slaughter stock, organic bovine dairy animals or for the purpose of organic fiber.

8. If organic management of the dairy animal is interrupted, the animal cannot be returned to organic certification.

9. Split bovine conventional and organic milking herds at the same location are prohibited.

10. Once the regulation is finalized all entities will be required to immediately meet the requirements of the Final Rule. There will be no implementation period.

We further ask that USDA give serious consideration to providing more economic capabilities to collect the data and help the industry better understand the impact of proposed policies on the industry. NODPA is ready to work with USDA and Congress to build support for that request.

We would be happy to talk with you and your leadership within Agricultural Marketing Service more about origin of livestock.  We urge you to move swiftly as family organic dairy farmers are suffering because of the lack of uniform and strict enforcement. We know you share this priority for strong enforcement and integrity and look forward to hearing from you.

Sincerely



NODPA Board Chair and New York organic dairy farmer

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NODPA Executive Director

cc: Gregory Ibach, Under Secretary for Marketing and Regulatory Programs,

 Jennifer Tucker, Director, National Organic Program

**Economic hardship caused by the lack of Origin of Livestock Regulation**

1. **Economic inequity for those operations that are transitioning to organic:** For some conventional dairy operations that are transitioning to organic production their certifier is restricting the transition to one already established distinct conventional herd with a clearly defined start and finish time for the transition. After that they have to rear or purchase animals which are organic from the last third of gestation involving either increased cost of feeding animals both with the use of land which could graze milking animals and the purchase of organic higher priced feed. Other operations can form a new herd from purchased conventional animals and take one year to transition that initial number of animals. They can then add conventional animals to suit the supply side demands of the market or transition more non-organic animals at a different time or rear organically born calves on conventional feed and then transition them into the original transitioned herd or many other mixtures of conditions now being accepted by certifiers. All the many different ways of transitioning other than the first one are either cheaper in feed and cost of land use, allow staggered capital investment to reduce the cost of debt service or give the operations greater flexibility to respond more quickly to supply demand. Organic dairy farms that are raising all of their youngstock organically are at severe economic disadvantage because it is much more costly to feed calves organic milk than conventional milk replacer or milk (organic milk pay price is usually double that of the conventional pay price) and more costly to feed the youngstock certified organic feeds during the first year of life rather than conventionally grown feeds and they cannot respond as quickly to an increase in supply demand. 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, creates a very un-level playing field.
2. **Respond to supply side demand more quickly and undermine the pay price for all organic dairies:** Organic dairy lacks the depth of reporting that conventional dairy has access to and therefore there is no independent data for volumes of organic milk produced, how it is used or the number of organic animals being milked. USDA AMS does publish retail sales of organic milk which make up approximately 75% of organic milk that is consumed as fluid milk.[[1]](#footnote-1) USDA AMS reported sales of retail fluid organic milk in 2008 at 1,676 million lbs. In 2012 it was 2,157 million lbs. and in 2017 total retail sales was 2,577 million lbs. This shows a slowing of growth of retail sales from roughly 8% annually to less than 1%.The USDA AMS reports that the average retail price for branded organic product from 2006 to 2018 is $3.77 per half gallon with a high of $4.21 in 2016 and a low of $3.48 in 2014. The highest month for sales was January 2018 with 234 million lbs. with an average retail price of $3.88 per half gallon. Organic Valley (CROPP Cooperative) and Horizon Organic (Danone NA) together control about 84% of the organic milk supply.[[2]](#footnote-2) In March 2015 CROPP Cooperative raised its pay price to reflect an increase in costs of production and “a surge in market demand.”[[3]](#footnote-3) In 2016 the twelve month average mailbox pay price was $35.68 per hundred pounds (CROPP Cooperative); in May 2017 it had dropped to $30.10 which included the ending of the $2 market adjustment premium (MAP) , the initiation of a quota and the start of an inventory management deduction of $1. In 2018 the twelve month average mailbox pay price is $29.52. In less than two years the deficit in supply was replaced by a significant surplus that resulted in a quota being imposed and a 25% reduction in pay price.

While sales were at the monthly highest level because of an increase in organic whole milk sales, growth of sales in non-fat organic dairy products were dropping at a rate of 4% annually, and the retail price was consistent, the average pay price was plummeting. For those operations whose certifier does not allow continuous transition of conventional animals, it will take a minimum of three years to have a significant response to a shortage of supply by increasing cow numbers, unless they have sufficient available capital to purchase organically certified milking cows. They will also be limited by their land base. For those entities whose certifiers allows continuous transition, they can respond within one year of seeing an increase in demand and pay price.

USDA NASS organic census shows an increase in the number of organic dairy cows from 2014 to 2015 was 1,068. The increase in organic cows from 2015 to 2016 was 38,326. This ability to expand rapidly gives those continuous transitioning operations economic advantage to increase profits quickly with a higher pay price. Large scale operations whose certifiers allow continuous transition were able to increase their volume quickly as they market their milk directly to store brand and private label contracts which are now the number sellers of organic dairy products. To give an idea of the difference between dairies’ sizes in Texas and Wisconsin, a NASS survey showed there were 76 times more organic dairies in Wisconsin than Texas, yet Texas produced 1.3 times more milk. Put another way, the average dairy’s production in Texas was 80 million pounds, while the average dairy in Wisconsin produced 810,000 pounds.

The inconsistencies in applying the Origin of Livestock regulations result in economic advantage for those whose certifiers allow for more than a one-time transition as they can respond more quickly to changes in the supply side market. With a deficit they can increase the number of milking cows and heifers quickly while the pay price is high. When the price drops they can sell their less productive milkers to minimize losses in the knowledge that they can buy in more animals if the demand changes.

1. **Undermine the integrity of the organic market:** The majority of organic dairies rely on selling their organic milk on the wholesale market and the integrity of that market is tied directly to their pay price. Once that integrity is undermined, consumers will pay less for organic milk and the only operations able to provide the organic milk are large scale operations that have access to capital. Conventional youngstock being brought onto operations on a continuous basis as is practiced now 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 in 2005 and in all other surveys since then.
2. **Undermine the market for organic dairy replacements:** Currently there is no established market for organic dairy replacements that are organic from the last third of gestation. Although there are some private sales of both individual animals and herds there is no national reporting of the value of organically certified dairy animals. The fact that the number of organic dairy cows was able to expand by 38,326 in one year illustrates that the increase in organic dairy cows comes from continuous transition of conventional animals as it takes 24 -30 months to increase retention of heifer calves and grow organically certified animals from the last third of gestation. The organic dairy herds average a cull rate of between 20-24%[[4]](#footnote-4) and the USDA NASS data for 2016 shows a total number of organic cows of 267,523 who produce 133,761 heifer calves every year/lactation (50% male to female). If operations need to retain replacements for their own operations at 25% of heifer calves, there will be potentially 100,000 replacements per year, more than enough to supply all those who want to start or expand their herds. The inconsistent implementation of the Origin of Livestock brings uncertainty into the market for rearing and selling organic dairy replacements plus deprives established organic dairies of a secondary income stream that compensates for the investment of capital, sweat equity and building fertility in the land.
1. Ye Su, Scott Brown, Michael Cook, Stability in Organic Milk Farm Prices: A Comparative Study, No. 150735, 2013 Annual Meeting, August 4-6, 2013, Washington, D.C., Agricultural and Applied Economics Association at 7 (June 3, 2013), http://ageconsearch.umn.edu/bitstream/150735/2/Stability%20in%20Organic%20Milk%20Farm%20Prices%20A%20Comparative%20Stud%20AAEA%203180.pdf. [↑](#footnote-ref-1)
2. Ye Su, Scott Brown, Michael Cook, Stability in Organic Milk Farm Prices: A Comparative Study, No. 150735, 2013 Annual Meeting, August 4-6, 2013, Washington, D.C., Agricultural and Applied Economics Association at 21 (June 3, 2013), <http://ageconsearch.umn.edu/bitstream/150735/2/Stability%20in%20Organic%20Milk%20Farm%20Prices%20A%20Comparative%20Stud%20AAEA%203180.pdf>. [↑](#footnote-ref-2)
3. Letter from CROPP Cooperative November 2014 [↑](#footnote-ref-3)
4. Ye Su, Scott Brown, Michael Cook, Stability in Organic Milk Farm Prices: A Comparative Study, No. 150735, 2013 Annual Meeting, August 4-6, 2013, Washington, D.C., Agricultural and Applied Economics Association at 21 (June 3, 2013), <http://ageconsearch.umn.edu/bitstream/150735/2/Stability%20in%20Organic%20Milk%20Farm%20Prices%20A%20Comparative%20Stud%20AAEA%203180.pdf> [↑](#footnote-ref-4)