



November 25, 2019

Dr. Paul Lewis  
Standards Division, National Organic Program  
USDA-AMS-NOP  
1400 Independence Avenue SW, Room 2642-So., Ag. Stop 0268  
Washington D.C. 20250-0268

**Re: Docket No. AMS-NOP-11-0009; Comment on National Organic Program Origin of Livestock Proposed Rule**

Dear Dr. Lewis:

On behalf of the Animal Welfare Institute (AWI) and The Greenfield Project (Greenfield), we write in support of AMS's proposed changes to the Origin of Livestock rule under the National Organic Program (NOP) that will address the continuous transitioning of dairy livestock to organic production, with slight modifications as detailed below.

Since its founding in 1951, AWI has been dedicated to reducing animal suffering and has worked to advance legislative and regulatory efforts to improve the conditions of animals used in agriculture. Greenfield is a 501(c)(3) nonprofit organization founded in 2017 that is committed to improving animal agriculture by identifying and promoting solutions that benefit farmers, animals, and consumers alike.

Due to ambiguities in the current rule, AMS found that inconsistent interpretations by organic certifying agents led approximately half of them to allow dairy producers only a one-time transition from conventional production to organic, while the remaining certifiers have allowed operations to continuously transition their herds. This has resulted in a rule that disadvantages small, family-scale operations that are fully committed to organic dairy production methods which require higher welfare practices than conventional production methods. Under current NOP regulations, producers are required to provide conditions that allow for exercise, freedom of movement, and reduction of stress,<sup>1</sup> year-round access to the outdoors, and daily access to organic pasture during the grazing season,<sup>2</sup> all of which promote higher welfare for the animals compared with conventionally managed animals.

AWI and Greenfield therefore support AMS's proposal to clarify section 205.236(a)(2) to permit only a one-time, collective transition for conventional dairy producers. This change will maintain the rule's intended purpose of allowing conventional producers one opportunity to transition to organic production, while limiting incentives to pursue a "shortcut" to organic production

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<sup>1</sup> 7 C.F.R. § 205.238(a)(4).

<sup>2</sup> 7 C.F.R. § 205.239(a)(1)-(2).

through the ongoing transition of conventional animals, who are cheaper to raise or acquire than animals managed organically from the last third of gestation.

Notwithstanding our general support of the proposed rule, **AWI and Greenfield recommend the following modifications:**

1. Limit the transition exception to existing/established dairies that want to convert their herd; exclude start-up operations.

The one-time exception to the origin of livestock rule is meant to allow conventional dairy producers to transition their systems to organic, and should not permit new businesses to establish organic dairy herds with conventional cattle. Allowing start-up dairies to utilize the exception incentivizes such businesses to buy and transition cheaper, conventional cattle, which puts farmers who have expended greater time and resources into organic production at a disadvantage. It would also shrink the market for organic calves and replacement animals that have been raised organically from the last third of gestation, which would have to compete with cheaper, conventional cattle. The transition exception should only be available for established conventional operations that want to transition to organic production without losing investments in their current operation.

We recommend revising section 205.236(a)(2) to read:

Dairy animals. A producer as defined in § 205.2 may transition dairy animals into organic production only once. A producer is eligible for this transition only if the producer ~~starts a new organic dairy farm or~~ converts an existing nonorganic dairy farm to organic production. A producer must not transition any new animals into organic production after completion of this one-time transition. 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, and meet the following conditions:

2. Remove the language that allows for transitioned animals to be moved or sold to different certified organic operations as replacements.

As written, the proposed rule allows organic operations to repeatedly purchase already-transitioned animals as replacement heifers, rather than keeping and raising calves born on their operations to be managed organically from the last third of gestation. This presents a welfare concern in that the relative costs of raising a calf born on a farm organically versus that to acquire a transitioned replacement heifer creates an incentive for organic dairies to sell and transport their calves, which is extremely stressful for the calves, and leads to poor health and welfare outcomes.

Amending the proposed rule to prohibit the sale and movement of transitioned animals to be used as replacements will encourage producers to operate with “closed herds,” in which the calves born on the farm are raised there under organic management until they can be used as

replacements. Such a change would limit the stressful transport of young calves and increase the total number of replacement heifers raised organically from the last third of gestation who benefit from the higher welfare standards of organic management, and are able to nurse from their dam, from other dams, or drink organic milk, rather than be raised on milk replacer at a heifer development farm.<sup>3</sup> This change would also help level the playing field for producers that already adhere to the higher welfare practices of organic management from the last third of gestation.

We recommend revising 205.236(a)(2)(viii) to read:

After the 12-month period ends, transitioned animals may produce organic milk on ~~any~~ the organic dairy farm on which she was transitioned, as long as the animal is under continuous organic management at all times ~~on a certified organic operation~~.

We also recommend revising 205.236(a)(2)(ix) to read:

After the 12-month period ends, any new dairy animal brought onto a producer's dairy farm(s) for organic milk production must be an animal under continuous organic management from the last third of gestation ~~or a transitioned animal sourced from another certified organic dairy farm~~.

3. Remove language that allows for breeder stock to be transitioned in and out of organic management.

Under the proposed rule, breeder stock who produce organic offspring are explicitly permitted to be taken out of organic management between calving cycles, i.e., after weaning of a nursing calf until the last third of gestation with a new calf. Although such cycling of breeder cows may not be a prevalent practice, we nevertheless view it as potentially problematic for a couple of reasons. First, organic management does not permit syncing of estrus with hormonal methods to aid conception, but non-organic management does. Breeder stock producing “organic” calves could be subjected to hormonal methods of syncing estrus before the last third of gestation, which is out of step with consumer expectations of organic dairy. Additionally, allowing breeder stock to cycle in and out of organic production creates a financial disincentive for organic producers who would otherwise manage breeder stock organically full-time, but must compete with those who remove breeder stock from organic management between calving. Thus, breeder stock producing organic calves should be required to be organically managed until they are no longer intended for use as organic calf breeder stock, and enjoy the higher welfare standards associated with organic production as long as they are used to produce organic offspring.

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<sup>3</sup>Although AMS stated in 2015 that “[a]t this point in time, AMS is not aware of any certified organic milk replacer produced in the US” and that “[a]s a result, organically raised dairy calves must be fed organic milk” (80 Fed. Reg. 23469 (Apr. 28, 2015)), our understanding is that there is now a milk replacer approved for organic use. However, we believe that milk replacer, organic or otherwise, should not be permitted for use on certified organic dairy farms, and that all organically managed calves should be fed only organic milk, and preferably should be permitted to nurse directly from their dam or other nursing dams.

We recommend revising 205.236(a)(3)(ii) to read:

Such breeder stock must be managed organically throughout the last third of gestation and the lactation period during which time they may nurse their own offspring. If breeder stock on a certified organic operation are removed from organic production at any point, they can no longer be used to produce organic offspring.

For the above reasons, we support the proposed rule that will clarify the NOP Origin of Livestock regulations, while also respectfully urging AMS to incorporate the additional modifications suggested herein. We believe that the proposed rule, coupled with our modifications, helps ensure uniform application of the rule, which will not only level the playing field for dairy producers committed to organic management practices, but also close loopholes that prevent some animals from reaping the welfare benefits of organic management practices. Thank you for your consideration of our comments.