



Comments on National Organic Program
Docket No. TM-06-06-PR

From the Northeast Organic Farming Association chapters of
NOFA-VT; NOFA-NH; NOFA-MASS; NOFA-CT; NOFA-RI; NOFA-NY and
NOFA-NJ

May 12, 2006

To: Mark Bradley
Assoc. Deputy Administrator
National Organic Program
Washington, DC
www.nop.livestock@usda.gov

RE: Docket No. TM-06-06-PR

To Whom It May Concern:

Pursuant to the notice of proposal rulemaking found at 71 Fed. Reg. 24820 (April 27, 2006), the Northeast Organic Farming Association (NOFA) submits the following comments.

Founded in 1971, NOFA is one of the oldest organic farming groups in the nation. It has state chapter organizations in Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York and New Jersey. NOFA is a nonprofit educational organization working for a localized, sustainable and organic food system. Our perspective is unique because our members represent all stakeholders in the food system, from

producers and handlers to consumers. A number of the NOFA organizations also are USDA-accredited certification agents with many years of experience in organic certification.

Request for Extension of Time

NOFA notes that this rule-making provides inadequate time for meaningful public comment on a substantive rule proposal. The Department has had a year to respond to the court-mandated rulemaking, but left an untenable 15-day comment period for issues that have proven to be controversial, and of interest to a broad base of stakeholders. In addition, this is the height of spring planting. This timing hinders farmers, industry, and public interest groups directly. We request that the time for public comment be extended by at least 30 days to allow interested parties to review and comment on this important rule-making.

I. Comments on Proposed Amendments to §205.236

The proposed amendment to the dairy transition standard is neither clear nor complete and will perpetuate significant existing inconsistencies in application of dairy transition standard with respect to young stock and herd replacements. As demonstrated by public presentations at the recent USDA Pasture Symposium and public comment at many National Organic Standards Board meetings, the public has a reasonable expectation that organic milk comes from cows that have not been treated with growth hormones or antibiotics at any stage in their lives. The National Organic Standards Board voted twice (in 2002 and again in 2003) to require organic management of all young stock once transition is complete.

It is imperative that the new rule clearly state that once a farm has transitioned to organic production, all replacement animals, whether born on the farm or brought in from outside herds, be under organic management from the last third of gestation.

Consequently, we join the Northeast Organic Dairy Producers Alliance and fellow certification agent Pennsylvania Certified Organic, in requesting the following specific language:

§ 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 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.

(3) Dairy animals - replacement stock. Once an operation has been certified for organic dairy production, all dairy animals, including all young stock whether subsequently born on or brought onto the operation, shall be under organic management from the last third of gestation.

II. Need for Technical corrections to § 205.600(b), § 205.605

Because the OFPA amendment legitimized the use of synthetic substances in organic processing (see rule proposal supplementary materials, 71 Fed. Reg. 24821/1) we believe that specific clarifications to § 205.600(b) and § 205.605 are required. These will correct the caption for the relevant portion of the National List and fully incorporate regulatory criteria for handling substances. In addition, the conflicting NOP Policy Statement of December 12, 2002, entitled: ***Synthetic Substances Subject to Review and Recommendation by the National Organic Standards Board When Such Substances are Used as Ingredients in Processed Food Products*** must be explicitly withdrawn.

We request that the following technical corrections be incorporated:

§205.600 Evaluation criteria for allowed and prohibited substances, methods, and ingredients.

The following criteria will be utilized in the evaluation of substances or ingredients for the organic production and handling sections of the National List:

- (a) Synthetic and nonsynthetic substances considered for inclusion on or deletion from the National List of allowed and prohibited substances will be evaluated using the criteria specified in the Act (7 U.S.C. 6517 and 6518).
- (b) In addition to the criteria set forth in the Act, any synthetic substance used in handling ~~as a processing aid or adjuvant~~ will be evaluated against the following criteria:....

.....

§205.605 Nonagricultural (nonorganic) substances allowed as ingredients-

in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

The following nonagricultural substances may be used as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s))” only in accordance with any restrictions specified in this section.....

III. Proposed Amendments to § 205.606

In amending § 205.606, the Department has failed to propose specific regulations concerning the process and criteria that will be used by the Secretary to make a finding that an ingredient is not commercially available in organic form and is consequently eligible for an emergency declaration of commercial unavailability, listing under § 205.606, and use in products labeled “organic.” Because the use of non-organic ingredients in organic processed foods fundamentally undermines the meaning of the organic label, we believe that the process and criteria for establishing commercial unavailability should be subject to notice and comment rulemaking.

Respectfully submitted,
Stephen Gilman, Policy Coordinator for
Northeast Organic Farming Association

Signed,

NOFA-VT
NOFA-NH
NOFA-MASS
NOFA-CT
NOFA-RI
NOFA-NY
NOFA-NJ