

**ORIGIN OF LIVESTOCK**  
**Recommendation for Rule Change**  
**NOSB Livestock Committee**  
**April 29, 2003**

## **Introduction**

Despite efforts by the National Organic Standards Board and the National Organic Program, a problem that can be traced to inaccurate numbering of the regulation has resulted in a double standard for young stock management on organic farms. The NOSB recommendation below calls for a rule change to assure that one standard applies to all dairy operations, once they have converted to organic production.

## **Background**

### **A. NOP Policy Statement**

On April 14, 2003, the NOP issued a policy statement containing a “two standards” interpretation of the regulation. Under that interpretation, an operation which utilized the 80/20 feed provision during the one year transition period is forever required to manage replacement animals organically from the last third of gestation, once the herd has been converted to organic production. An operation that managed the animals organically for one year during transition without using the 80/20 provision can continuously bring conventional replacement animals into the herd, provided that they are managed organically for one year prior to production.

The NOP “ORIGIN OF LIVESTOCK” policy states:

“The National Organic Program has received complaints that certifying agents are only allowing certified operations to add or replace dairy animals with animals that are organic from the last third of gestation. As demonstrated by the **attached document**, such requirement is a violation of the National Organic Standards. Applicants for certification and certified operations required, by their certifying agent, to source additional animals or replacement animals other than as required by section 205.236 (as shown in the attached document) should report the violation to NOP Compliance.

Details on how to file a complaint with NOP Compliance can be found on the NOP Web site at [www.ams.usda.gov/nop/Compliance/FileComplaint.html](http://www.ams.usda.gov/nop/Compliance/FileComplaint.html).”

The “attached document” states:

“Did you convert an ENTIRE DAIRY HERD after October 21, 2002, and use the feed exemption? If YES, All future DAIRY ANIMALS must be under continuous organic management from the last third of gestation. If NO, The DAIRY ANIMALS must be under continuous organic management beginning no later than 1 year prior to production.”

### **B. Preamble Excerpts**

On page 80560, the preamble states:

“Once the herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.”

On page 80570, the preamble states:

“After the dairy operation has been certified, animals brought on to the operation must be organically raised from the last third of gestation. We did not incorporate the NOSB's recommendation to provide young stock with nonorganic feed up to 12 months prior to the production of certified milk.”

On the same page, the preamble goes on to state:

“The conversion provision also rewards producers for raising their own replacement animals while still allowing for the introduction of animals from off the farm that were organically raised from the last third of gestation. This should protect existing markets for organically raised heifers while not discriminating against closed herd operations. Finally, the conversion provision cannot be used routinely to bring nonorganically raised animals into an organic operation.”

There is nothing in the preamble which indicates that, once converted, operations are allowed to continuously bring conventional animals into the organic dairy herd. Indeed, the preamble and the regulation strongly support a “systems” approach to organic production. Continuous introduction of conventional dairy replacement animals undermines, and is contrary to, a systems approach.

### **C. Rule Citations**

In the regulation, section 205.236(b)(1) clearly states that animals may not be rotated between organic and nonorganic production. Animals must not be removed from an organic operation and managed nonorganically, if they or their products are ever to be sold or represented as organic:

#### **§ 205.236 Origin of livestock.**

(b) The following are prohibited:

(1) Livestock or edible livestock products that are removed from an organic operation and subsequently managed on a nonorganic operation may be not sold, labeled, or represented as organically produced.

Section 205.238(c)(1) makes it clear that animals treated with antibiotics or other prohibited substances must not produce organic products. The new NOP policy on “origin of livestock” allows animals treated with antibiotics or other prohibited substances to continuously enter organic production, provided that they are managed organically for one year prior to production.

#### **§ 205.238 Livestock health care practice standard.**

(c) The producer of an organic livestock operation must not:

(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under § 205.603, or any substance that contains a nonsynthetic substance prohibited in § 205.604.

### **D. Prior NOSB Recommendation**

On October 20, 2002, the NOSB unanimously recommended that the regulation be interpreted to require that all dairy replacement animals be managed organically from the last third of gestation. This recommendation was supported by comments submitted by the Organic Trade Association, certifying agents, and members of the public.

## Recommendation

The NOSB recommends that §205.236(a)(2)(iii) be amended to read:

### § 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, That, when an entire, distinct herd is converted to organic production, the producer may:

(i) For the first 9 months of the year, provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and

(ii) provide feed in compliance with § 205.237 for the final 3 months.

~~(iii)~~(3) Dairy animals – replacement stock. Once ~~an entire, distinct~~ a dairy herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.

Section 205.236(a)(3) will be renumbered to 205.236(a)(4).

In proposing the recommendation, the Livestock Committee notes that §205.236.(a)(2)(i) and §205.236.(a)(2)(ii) are already connected by the word “and”. There is a period at the end of §205.236.(a)(2)(ii). The punctuation indicates that this clause already stands alone.

The clear explanation of the intent of this clause on page 80570 of the preamble also indicates that §205.236(a)(2)(iii) applies to all animals, once the herd is converted. The proposed renumbering and rewording will eliminate a dual standard for young stock and be consistent with the preamble.

**Committee vote** – 5 in favor, 0 opposed, 1 absent.

**Minority opinion** – None.

## Conclusion

By incorporating the rule change contained in this recommendation, the USDA will assure that one standard for replacement stock applies to all dairy operations, once they have converted to organic production.