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February 14, 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 Secretary Perdue:

We write to request your help ensuring the success of organic dairy farmers. The success of this sector depends on consumer trust for the USDA organic seal as well as a level playing field for organic producers. Both of these require consistent enforcement of the USDA Organic Regulations by accredited certification agencies.

The Accredited Certifiers Association represents 55 of these agencies, who are accredited by the USDA to verify compliance to the National Organic Program regulations. Our membership includes programs administered by state departments of agriculture, as well as county level programs and private companies. Nearly all U.S.-based organic certifiers are among our membership. What our members tell us, and what we'd like to tell you, is that there is a problem with consistent interpretation of the regulations related to origin of livestock in organic production systems. This inconsistency presents an unlevel playing field for organic farmers and creates distrust for the USDA Seal among organic consumers. **As such, we are requesting clarification related to 7 CFR 205.236 Origin of Livestock.**

The rule in question, 205.236(a)(2)(iii) states: "Once an entire, distinct herd has been converted to organic production, all animals shall be under organic management from the last third of gestation."

Some certifiers maintain that this conversion must be a one-time event, and that afterward, animals brought onto the operation must be organically raised from the last third of their gestation. This is consistent with 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](#).)

However, some certifiers allow continuous transition of non-organic animals, stating that the phrase *distinct herd* is unclear and that 205.236 might not necessarily prohibit continuous transition processes or “re-transition” of young stock as separate distinct herds after a period of non-organic management. Producers who are allowed to utilize a multiple-transition process, or a system that re-transitions dairy calves raised conventionally, are at a significant cost advantage. Specifically, if producers are allowed to manage livestock as conventional for a period of time, and they are not required to use organic feed and other organic management factors for a year before being re-transitioned to organic status, their management costs drop significantly. Many perceive this to be an unfair competitive advantage, contrary to the intention of the regulation, and out of line with consumer expectations. However, when pressed on this issue, the NOP has declined to take action, citing a long and complicated history related to the interpretation of 205.236. This history includes several National Organic Standards Board (NOSB) recommendations that eventually led to a proposed Origin of Livestock rule, which was not finalized and was eventually removed from the government’s Unified Agenda of Regulatory and Deregulatory Actions.

Accredited certifiers would really like to get on the same page as one another about this. The topic is discussed frequently in various forums, but lack of regulatory clarity coupled with diverging past precedents make it extremely challenging for certifiers to switch course from where they are currently. Although our members do not all agree on the interpretation of this regulation as it is currently written, we are in *strong* agreement that once regulatory clarification is provided, we can stand together to enforce the rule consistently to the benefit of the organic dairy industry.

In fall of 2018, the NOSB passed a unanimous resolution, which “urges 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).”

Please work with the National Organic Program to prioritize strong and consistent enforcement by issuing a final rule that clarifies requirements related to Origin of Livestock. We urge you to move quickly on this issue, and we are willing to discuss the matter further as needed.

Sincerely,



Jennifer Cruse
Executive Director
Accredited Certifiers Association

On behalf of the following:

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