

Origin of Organic Dairy Livestock

Milk sold or represented as organic must be from livestock that have been under continuous organic management for at least one year. This one-year transition period is allowed only when converting a conventional herd to organic. Once a distinct herd has been converted to organic production, all dairy animals must be under organic management from the last third of gestation.

REGULATORY UNCERTAINTY HAS CREATED INCONSISTENT ENFORCEMENT AND ECONOMIC HARM TO FARMERS

Due to the lack of specificity in the regulations, some USDA-accredited certifiers allow dairies to routinely bring non-organic animals into an organic operation, and transition them for one year, rather than raise their own replacement animals under organic management from the last third of gestation. Additionally, some farmers are allowed to remove organic dairy animals from a herd, raise them using conventional feed and other prohibited management practices, and then re-transition them back to organic. This practice of continuously transitioning and/or cycling dairy animals in and out of organic production is a violation of the organic standards.

Farmers who do not raise their own organic replacement animals have lower costs of production, creating an economic disadvantage for organic farmers who comply with the organic regulations. Our analysis indicates that organic dairy farmers who raise their calves according to the organic standard from birth spend an average of \$600-1,000 more per calf than farmers who raise calves conventionally and transition them to organic at one year of age.

ACTION BY USDA IS REQUIRED TO ENSURE STRONG AND CONSISTENT STANDARDS

In 2015, USDA issued a proposed rule, which clarified the regulations around origin of livestock while still allowing for a one-time transition of a conventional herd to organic. Public comments reflected widespread consensus and support for the proposed rule. However, a final rule was never published and, in 2017, it was removed from USDA's Unified Regulatory Agenda without explanation.

ASK: USDA must immediately issue a final rule on the origin of livestock that reflects the policies contained in the original proposed rule that the industry overwhelmingly supported.

In February 2019, the Organic Trade Association's Dairy Sector Council sent a letter to USDA urging the agency to publish a final rule. The signatories on the letter represented over 90 percent of the current U.S. organic dairy market. From small family farms to some of the largest organic dairies and companies in the world, the organic dairy industry united to demand strong and consistent standards.

Last year, growth in the U.S. dairy sector slowed for the second year in a row. Still the second-largest organic category, sales were \$6.5 billion in 2018, up 0.8 percent from 2017.

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Summary of the Proposed Rule on Origin of Livestock

On April 28, 2015, the USDA Agricultural Marketing Service (AMS) published a proposed rule to amend the origin of livestock requirements and clarify the requirements for the transition of dairy animals (cows, goats, sheep) into organic production. The proposed rule would also clarify how breeder stock should be managed on organic livestock farms.

NEW REQUIREMENTS UNDER THE PROPOSED RULE

- A **producer** (e.g., an individual or corporation starting or operating a dairy farm) may transition non-organic dairy animals to organic milk production **only once**.
- The transition must occur over a continuous 12-month period and all transitioning animals must end the transition at the same time.
- After the transition period ends, the producer is not allowed to transition any additional animals to organic production. The producer may only add dairy animals that have been under continuous organic management since the last third of gestation, or transitioned dairy animals sourced from another certified organic dairy farm.
- Producers are eligible for a one-time transition only if they start a new organic dairy farm or convert an existing non-organic dairy farm to organic production.
- Producers that only raise heifers for organic dairy farms are not eligible the one-time transition.
- Non-organic breeder stock must be under organic management throughout the last third of gestation and the lactation period during which time they may nurse their own offspring.

ESTIMATED COSTS AND BENEFITS OF THE PROPOSED RULE

- **Costs (range):** \$288,000–\$935,000
This range indicates the estimated costs for dairy producers to purchase organic replacement heifers instead of transitioned heifers. (AMS had no data to estimate costs for dairy sheep and goat farms.) AMS believes the lower bound is a conservative estimate of the costs and actual costs could be less. The upper limit accounts for an assumed organic premium for organic heifers. The difference between the lower bound and upper limit is believed to be an intra-industry transfer of costs and benefits, not a net cost
- **Benefits**
Will create a consistent, level playing field for all existing organic dairy producers, regardless of how they transitioned into organic production. Facilitates more consistent enforcement of organic dairy standards. Maintains consumer confidence in the USDA Organic seal.

COMMENTS RECEIVED

A total of 1,570 public comments were submitted to USDA during the original comment period for the proposed rule. Only 1% of commenters opposed the rule. The other 99% of commenters included certifiers, advocacy groups, certified operations, consumers and hundreds of stakeholders that support regulations that would limit transition to a one-time event. Substantive comments highlighted some areas of the proposed rule that would need clarification in order to clarify the intent of the rule and ensure consistent implementation of the final rule. USDA would need to consider these points and determine a clear path forward in the final rule.

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