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July 15, 2015

Scott Updike, Agricultural Marketing Specialist,
National Organic Program, USDA-AMS-NOP,
Room 2646—So., Ag Stop 0268,
1400 Independence Ave. SW.,
Washington, DC 20250-0268

RE: Docket: AMS-NOP-11-0009; NOP-11-0
National Organic Program, Origin of Livestock

Dear Mr. Updike:

Oregon Tilth would like to thank the National Organic Program for their work on the Origin of Livestock proposed rule change. We agree that consistency across certification agencies is critical to transparency and ensuring a level playing field for all certified operations.

Oregon Tilth, Inc. is a non-profit 501(c)(3) organization that supports and promotes biologically sound and socially equitable agriculture. Oregon Tilth offers educational events throughout the state of Oregon, and provides organic certification services to organic growers, processors, and handlers internationally. An NOP accredited certifier since 2002, Oregon Tilth currently certifies 164 dairy operations in 20 states affording us a broad perspective of current practices and challenges faced by these producers.

Summary:

We largely support this proposed rule with some clarifications to ensure that the intended interpretation is clear and consistently enforced. Oregon Tilth was happy to see the allowance for producers to purchase animals from certified organic operations whether they were initially transitioned or not. This not only supports the dairy industry but also is clear and auditable for certifiers. Below are the clarifications and amendments we recommend and the results of a survey of our certified dairy producers.

We ask for clarification and amendments to the following sections:

1. In §205.236(a)(2) the proposed rule indicates that a “person” is the unit that is limited to one herd transition. The use of “person” is confusing and does not take into account all scenarios.
2. §205.236(a)(2)(vi) Requires that all animals finish transition at the same time. We do not feel that this is necessary to maintain oversight.
3. There is not a planned implementation time.
4. Both of the terms “organically managed” and “certified organic” are used within §205.236.
5. Feeding of third year transitional crops in 205.236(a)(2)(ii) does not specify that these crops be from farm site only.

1. Use of the term “person” and link to one time transition

Many industry groups (including certifiers) have expressed concern that the term “person” and “producer” is used to identify who can have a one-time transition. As per the Standards definition 205.2 a “person” is “an individual, partnership, corporation, association, cooperative, or other entity.” The concern is that tying transition to a person might prevent organic dairy farmers from selling their farm to another farmer, or transferring ownership of their farm to their children, and moving somewhere else to start another farm and transition another herd. Instead of tying transition to a “person,” we recommend using the term “certified operation.” This would allow for the above scenarios, and would still allow for traceability but does not inhibit growth within the industry or ownership changes on the farm.

2. All animals must finish transition at the same time

Oregon Tilth does not agree that requiring all animals to finish transition at the same time is necessary. Certifiers should be able to agree to plans that are auditable and enforceable. These plans may allow certain groups in the distinct herd to extend the transition period longer than other animals within the herd. We are successful and experienced in auditing various animal identification records for compliance, especially for operations that request slaughter eligibility and have both transitioned and organic animals on the same site. Further, we do not see any risk to organic integrity or the intent of the regulations when the herd does not finish transition on the same date.

3. Implementation period

We believe that the implementation period should be flexible and based upon the operations Organic System Plan agreed to by the client and accredited certifier. The organic dairy industry is expanding rapidly trying to meet consumer demand. Many operations have a transition plan as part of their current Organic System Plan that has already been agreed to by their certifier. It should be allowable for clients to finish this planned transition. These plans may have animals transitioning at different times or extending the time to beyond one year. Any operation that does not have a currently approved plan as of the effective date would be required to follow the Final Rule as written.

4. Organically managed vs. certified organic

The current and proposed rule 205.236(a) requires that “*Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching.*” However, in the proposed rule 205.236(a)(2)(v) it states that offspring from transitioning dairy animals are organic as long as they are, “*under continuous organic management **and if only certified organic crops and forages are used from their last third of gestation***”. This requires that operations are certified organic prior to completing the transition or they are in their third year of transition if they want organic young-stock. This effectively requires dairy young-stock to have different origin requirements than all other slaughter eligible livestock as described in §205.236(a). We believe that this section should be changed to allow for situations where the certification is not finalized prior to their last third of gestation but the land and practices were compliant with the regulations.

5. Third year transitional crops

The proposed rule section 205.236(a)(2)(ii) no longer states that third year transitional crops must come from the dairy operation itself. Allowing operators to purchase third year transitional crops from other producers would be very difficult for ACAs to consistently audit. Oregon Tilth does offer a Certified Transitional program for producers that are ultimately seeking certification to the NOP. With this program we are able to verify that compliant practices and procedures are in place as well as the date for T3 eligibility. In the future, we would like to see transitional producers recognized by and certified to the National Organic Program. Until then, it is not possible to confirm compliance. For clarity the section should be reverted back to the current regulatory language:

“That, 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;”

Certified Client Input:

Oregon Tilth polled our certified clients. We received few responses to our request, which was not surprising as this is a very busy time of year for farmers. We found that 25% of those who responded felt that the proposed rule would greatly impact their operation. Another 25% indicated that it would somewhat effect their operation and 50% reported that it would not effect them at all. Only 20% were planning to transition in one year and no one indicated that they were planning to transition in 2 years. One client ultimately supported the rule change but was concerned that it would inhibit operations to join or expand in the organic dairy industry that is rapidly growing. Another client would be very impacted by this rule change and would have to drop out of the organic industry or significantly change their business.

Thank you for the opportunity to comment on this important proposal. As requested by other commenters we would support having a second draft proposal prior to the final rule implementation.

Best regards,

Oregon Tilth, Inc.