



United States
Department of
Agriculture

Agricultural
Marketing
Service

STOP 0268 – Room 4008-S
1400 Independence Avenue, SW.
Washington, D.C. 20250-0268

APR 16 2007

NOTICE OF PROPOSED REVOCATION

Mr. Marc Peperzak
CEO, Aurora Organic Dairy
1401 Walnut Street, Suite 500
Boulder, Colorado 80302-5332

Dear Mr. Peperzak:

On November 9, 2005, the Cornucopia Institute filed a complaint with the National Organic Program's (NOP) Office of Compliance. The complaint alleged violations of the NOP regulations by Aurora Organic Dairy of Boulder, Colorado.

During the course of our investigation of Aurora Organic Dairy, we identified willful violations of the Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501 *et seq.*), and the regulations thereunder (7 CFR Part 205), by Aurora Organic Dairy. The violations are listed in the enclosed document, Aurora Organic Dairy, Case No. M-005-06, Violations by Aurora Organic Dairy, dated March 7, 2007.

Due to the nature and extent of these violations, the NOP proposes to revoke Aurora Organic Dairy's production and handling certifications under the NOP. This proposal is for purposes of informal resolution of this matter, and does not necessarily reflect all the relief the Agency would seek if this matter is formally adjudicated. Unless this action is appealed as provided below, revocation will be effective 30 days from receipt of this letter. If the NOP revokes Aurora Organic Dairy's production and handling certifications, the operation and all persons responsibly connected with the operation will be ineligible to receive certification for a period of 5 years following the date of revocation.

Aurora Organic Dairy has the right to file an appeal of this proposed action within 30 days of receipt of this letter pursuant to §205.681 of the NOP regulations. The appeal must include a copy of this notice and a statement of your reasons for believing that the decision is not proper or made in accordance with applicable NOP regulations, policies, or procedures. The appeal must be filed in writing and addressed to:

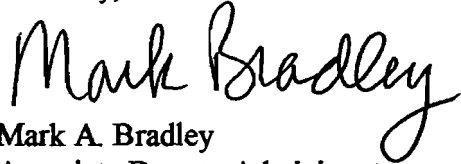
Administrator, USDA, AMS
C/o NOP Appeals Staff, Stop 0203
Room 302-Annex
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0203

Mr. Marc Peperzak

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If you have questions regarding this proposed action or how to file an appeal, you may contact me by e-mail at mark.bradley@usda.gov or by telephone at (202) 720-3252.

Sincerely,

A handwritten signature in black ink that reads "Mark Bradley". The signature is written in a cursive style with a large, looping "M" and "B".

Mark A. Bradley
Associate Deputy Administrator
National Organic Program

Enclosure - Aurora Organic Dairy, Case No. M-005-06, Violations by Aurora Organic Dairy, dated March 7, 2007

AURORA ORGANIC DAIRY
Case No. M-005-06
Violations by Aurora Organic Dairy

1. From 2003 through 2006, for dairy animals at its Platteville, Colorado, facility, Aurora Organic Dairy (AOD), failed to provide a total feed ration that included pasture, failed to establish and maintain pasture conditions appropriate for minimizing the occurrence and spread of diseases and parasites, and failed to establish and maintain access to pasture, in willful violation of 7 C.F.R. §§ 205.237(a), 205.238(a)(3) and 205.239(a)(2).
2. During the spring and early summer of 2006, AOD entered conventional dairy animals into organic milk production at its Dublin, Texas, facility before they completed the required one-year period of continuous organic management, which began sometime after September 30, 2005, in willful violation of 7 C.F.R. § 205.236(a)(2).
3. From 2003 through 2006, AOD purchased for its Platteville facility, from Promiseland Livestock in Falcon, Missouri, dairy animals that had been converted from conventional to organic milk production, and thus had not been under continuous organic management from at least the last third of gestation, in willful violation of 7 C.F.R. § 205.236(a)(2)(iii).
4. From on or about July 10, 2004, through on or about September 28, 2005, AOD routinely moved organic dairy animals from its certified Platteville facility to Wells Ranch in Gill, Colorado, a non-organic (non-certified) livestock operation, for management, and thereafter returned them to the Platteville facility for organic dairy production, in willful violation of 7 C.F.R. §§ 205.236(b)(1).
5. From February 2005 through March 2006, AOD moved organic calves from its certified Platteville facility to non-organic (non-certified) livestock operations for management, and eventually returned them to the Platteville facility for organic dairy production, in willful violation of 7 C.F.R. §§ 205.236(a)(2)(iii) and 205.236(b)(1).
6. From 2003 through 2006, AOD used non-organic agricultural products, such as wheat straw and corn stalks, as bedding for organic dairy animals at its Platteville facility, and, in 2006, at its Woodward facility in Windsor, Colorado, in willful violation of 7 C.F.R. § 205.239(a)(3).
7. From on or about July 27, 2004, through on or about September 30, 2005, AOD routinely caused organic dairy animals from Promiseland Livestock, a certified organic operation, to be delivered to Wells Ranch, a non-organic (non-certified) livestock operation, for livestock management, before having them delivered to AOD's Platteville facility for organic dairy production, in willful violation of 7 C.F.R. § 205.236(b)(1).

8. From December 5, 2003, to the present, AOD sold, labeled and represented milk as organically produced, when such milk was not produced and handled in accordance with the National Organic Program (NOP) regulations (7 C.F.R. part 205), in willful violation of 7 C.F.R. §§ 205.102, 205.200 and 205.400(a).
9. From on or about October 29, 2003, through on or about March 9, 2006, AOD failed to notify its certifying agent immediately concerning changes to the operation of its Platteville facility, regarding the termination and utilization of off-site facilities, such as Wells Ranch, contracted by AOD to provide pasture and/or livestock management services, in willful violation of 7 C.F.R. § 205.400(f)(2).
10. AOD failed to include a summary statement, supported by documentation, in the December 29, 2004, and December 28, 2005, Organic System Plans (OSPs) for its Platteville facility that detailed changes to the previous year's OSP regarding the termination and utilization of off-site facilities, such as Wells Ranch, contracted by AOD to provide pasture and/or livestock management services, in willful violation of 7 C.F.R. § 205.406(a)(1)(i).
11. From 2004 through 2006, AOD failed to maintain adequate records that disclosed all activities and transactions in sufficient detail as to be readily understood and audited and to demonstrate compliance with the OFPA and NOP regulations concerning pasture arrangements with operations identified by AOD in its annual OSP for its Platteville facility, in willful violation of 7 C.F.R. § 205.103(b).
12. In the October 29, 2003, and December 29, 2004, OSPs for its Platteville facility, AOD failed to include a full description of the practices and procedures to be performed by Wells Ranch, in willful violation of 7 C.F.R. § 205.201(a)(1).
13. In the December 28, 2005, OSP for its Platteville facility, AOD failed to include a full description of the practices and procedures to be performed by Matsuda Farms, Salazar, Cockroft Dairy Farm, and Ray-Glo Dairy, as well as its Woodward facility, in willful violation of 7 C.F.R. § 205.201(a)(1).
14. In the October 29, 2003, December 29, 2004, and December 28, 2005, OSPs for its Platteville facility, AOD failed to include a full description of the monitoring practices and procedures to be performed and maintained to verify that its OSPs were effectively implemented with respect to off-site operations contracted by AOD to provide pasture and/or livestock management services, in willful violation of 7 C.F.R. § 205.201(a)(3).

March 7, 2007

§ 205.2 Terms defined.

Pasture. Land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources.

§ 205.102 Use of the term, "organic."

Any agricultural product that is sold, labeled, or represented as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must be:

(a) Produced in accordance with the requirements specified in § 205.101 or §§ 205.202 through 205.207 or §§ 205.236 through 205.239 and all other applicable requirements of part 205; and

(b) Handled in accordance with the requirements specified in § 205.101 or §§ 205.270 through 205.272 and all other applicable requirements of this part 205.

§ 205.103 Recordkeeping by certified operations.

(b) Such records must:

(1) Be adapted to the particular business that the certified operation is conducting;

(2) Fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;

(3) Be maintained for not less than 5 years beyond their creation; and

(4) Be sufficient to demonstrate compliance with the Act and the regulations in this part.

§ 205.200 General.

The producer or handler of a production or handling operation intending to sell, label, or represent agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must comply with the applicable provisions of this subpart. Production practices implemented in accordance with this subpart must maintain or improve the natural resources of the operation, including soil and water quality.

§ 205.201 Organic production and handling system plan.

(a) The producer or handler of a production or handling operation, except as exempt or excluded under § 205.101, intending to sell, label, or represent

agricultural products as "100 percent organic," "organic," or "made with organic (specified ingredients or food group(s))" must develop an organic production or handling system plan that is agreed to by the producer or handler and an accredited certifying agent. An organic system plan must meet the requirements set forth in this section for organic production or handling. An organic production or handling system plan must include:

(1) A description of practices and procedures to be performed and maintained, including the frequency with which they will be performed;

(3) A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented.

§ 205.236 Origin of livestock.

(a) 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: Except, That:

(2) Dairy animals. 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,

(i) 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; and

(ii) That, when an entire, distinct herd is converted to organic production, the producer may, provided no milk produced under this subparagraph enters the stream of commerce labeled as organic after June 9, 2007: (a) 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 (b) Provide feed in compliance with §205.237 for the final 3 months.

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

(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 not be sold, labeled, or represented as organically produced.

§ 205.237 Livestock feed.

(a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and, if applicable, organically handled: Except, That, nonsynthetic substances and synthetic substances allowed under § 205.603 may be used as feed additives and supplements.

§ 205.238 Livestock health care practice standard.

(a) The producer must establish and maintain preventive livestock health care practices, including:

(3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites.

§ 205.239 Livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of animals, including:

(2) Access to pasture for ruminants;

(3) Appropriate clean, dry bedding. If the bedding is typically consumed by the animal species, it must comply with the feed requirements of § 205.237.

§ 205.400 General requirements for certification.

A person seeking to receive or maintain organic certification under the regulations in this part must:

(a) Comply with the Act and applicable organic production and handling regulations of this part;

(f) Immediately notify the certifying agent concerning any:

(2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

§ 205.406 Continuation of certification.

(a) To continue certification, a certified operation must annually pay the certification fees and submit the following information, as applicable, to the certifying agent:

(1) An updated organic production or handling system plan which includes:

(i) A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year.