



CORNUCOPIA  
I N S T I T U T E

**October 12, 2008**

**TO: David Trykowski, NOP Compliance, USDA**

**RE: Complaint concerning multiple violations of the National Organic Program's regulatory standards by Shamrock Farms headquartered in Phoenix, AZ**

Dear Mr Trykowski,

The Cornucopia Institute is filing this formal complaint with your office concerning possible violations of National Organic Program (NOP) regulatory standards governing ruminants (dairy cows) by the Shamrock Farms dairy south of Phoenix, AZ. We are asking that you fully investigate this complaint to determine whether violations of NOP regulatory standards have occurred, are occurring, or will occur.

We are willing to share with your investigators all of the factual evidence we have directly gathered from our site visit to the Shamrock Farms facility. At the conclusion of your investigation, we ask that you take all warranted enforcement actions to bring this dairy operation into compliance with NOP rules in a timely fashion or to decertify and/or fine the operator, if appropriate.

If the allegations we have gathered are proven to have merit, we believe that there is a reasonable basis to conclude that the Shamrock Farms Dairy is violating the following provisions of the NOP regulations:

**Subpart C**

**§ 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 ... (emphasis added)

*and*

**§ 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;

(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;

*and*

**§ 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:

- (1) Access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment;
- (2) Access to pasture for ruminants;

(b) The producer of an organic livestock operation may provide temporary confinement for an animal because of:

- (1) Inclement weather;
- (2) The animal's stage of production;
- (3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or
- (4) Risk to soil or water quality.

**Regarding the Shamrock Farms dairy operation**, The Cornucopia Institute contends that the feedlot facility does not provide sufficient pasture for their dairy herd numbering approximately 11,000 head, of which 700-1000 are being "managed" organically.

Staff from The Cornucopia Institute visited and directly observed the Shamrock operation in April 2008. Then 100% of the dairy herd was confined to the facility's feedlot and, according to dairy staff, had not been out on their substandard pasture acreage for a matter of weeks. This fails the standard established under NOP regulation **§ 205.239. Terms defined:**

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

Stocking levels of 5-10 cows per acre do not meet universally acceptable grazing standards.

The Cornucopia Institute recognizes that certified organic dairy operations can remove cows from pasture for temporary considerations based on weather, environmental, or health considerations, as noted above in **§ 205.239**. The Cornucopia Institute contends, however, that geographic or climatic conditions—which make pasture impractical or not cost-effective—cannot be used to justify year-round noncompliance with the pasture rule.

In addition, The Cornucopia Institute requests that the USDA investigate whether or not the organic label may be used in the branded dairy products produced and marketed by **Shamrock Farms**.

The following criteria stated in the national organic regulations should be used to make this determination:

**Subpart D - Labels, Labeling, and Market Information**  
**§ 205.300 Use of the term, "organic."**

(a) The term, "organic," may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the regulations in this part. The term, "organic," may not be used in a product name to modify a non-organic ingredient in the product.

The Cornucopia Institute requests that the USDA investigate the applicability of this national organic regulation, should it be deemed appropriate:

**Subpart B – Applicability**  
**§ 205.100 What has to be certified**

(c) Any operation that:

- (1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than \$10,000 per violation.
- (2) Makes a false statement under the Act to the Secretary, a governing State official, or an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

And finally, because of past widespread problems discovered by Cornucopia and the USDA at other CAFOs certified to produce organic milk, we strongly encourage the Department to meticulously scrutinize all documentation and practices related to the origin of livestock.

The Shamrock Farms dairy plant has been most recently certified by Quality Assurance International, and their contact information is:

9191 Towne Centre Dr., Suite 510  
San Diego, CA 92122  
Contact: Joe Smillie  
Phone: 858-792-3531  
E-mail: [qai@qai-inc.com](mailto:qai@qai-inc.com)

It is unclear who has organic certification responsibility for the livestock. Neither information provided by the National Organic Program or the Shamrock Farms web page provide the level of transparency permitting the ability to discern this fact.

Contact information for the Shamrock Farms dairy is:

Shamrock Farms Dairy Division  
2228 N. Black Canyon Hwy.  
Phoenix, AZ 85009  
(602) 272-6721

Please keep The Cornucopia Institute apprised of the status of and progress of your investigation into this formal complaint. We take this matter very seriously. Farmers who have made the difficult conversion to organics and consumers who are paying premium prices for organic foods rely upon the USDA and its approved certifying agents to uniformly and fairly enforce the nation's organic law.

Lastly, pursuant to **Subpart C** and the following provision:

**§ 205.680 General**

- (a) Persons subject to the Act who believe they are adversely affected by a noncompliance decision of the National Organic Program's Program Manager may appeal such decision to the Administrator.

The Cornucopia Institute requests that the USDA's Office of Compliance make a timely, full, and good faith effort in their investigation of these allegations. We do not convey these allegations frivolously—they are a serious matter. And while the Institute lacks specific investigative powers possessed by the USDA (the ability to take sworn testimony, access certification documents, or subpoena relevant material), we expect the USDA to take these allegations seriously and conduct a meaningful investigation.

In fact, failure to take such action will only encourage future scofflaws and corner cutting by organic operators, and will make a mockery of the federal organic regulations that are so diligently observed by the vast majority of participants in the nation's organic agriculture and food sector.

It should be noted that nothing in this formal complaint shall be interpreted as a waiver of our right to appeal under the Adverse Action Appeals Process cited above.

You may contact us at your convenience.

Sincerely,



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