

## **NOP Statement Regarding Extending Comment Period on TM 06-06-PR, Harvey v. Johanns Proposed Rulemaking**

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USDA has decided not to extend the comment period for the rulemaking TM 06-06-PR, also known as the Harvey v. Johanns rulemaking. It is necessary to proceed with this rulemaking to ensure timely compliance with court and Congressionally-mandated changes to the national organic program regulation. However, USDA recognizes that the final court order only addressed *feed* for dairy animals and there remains an issue that is of concern to many organic producers and consumers—the current two-track system for converting dairy replacement animals. USDA intends to engage in further rulemaking on this matter following the final rulemaking needed to comply with the final court order and judgment.

### **Talking Points Q&As**

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#### **Q. Why would USDA not extend the comment period?**

A. This rulemaking proposes several changes to the National Organic Program (NOP) regulation that were mandated by the U.S. District Court to be completed by June 4, 2006. The proposed changes as mandated by the Court have been well publicized for over a year, as the Court decision was published on January 26, 2005. Specifically for dairy, this rulemaking proposes a change mandated by the court that found the dairy feed exemption of the NOP regulations to be in violation of the Organic Foods Production Act (OFPA). The current rulemaking also addresses changes required by the Congress when it amended the OFPA in November 2005, to provide a different transition for newly entering dairy farmers wishing to convert to organic dairy production.

#### **Q. What does USDA intend to do to address the concerns raised by requests for extending the comment period?**

A. While the concerns raised in the request for an extension of the comment period are not related to the court-mandated changes to the NOP regulations, USDA recognizes that the two-track system for converting dairy replacement animals is of concern to many organic producers and consumers. Therefore, USDA intends to engage in further rulemaking on this matter following the final rulemaking needed to comply with the final court order and judgment.

#### **Q. When will USDA engage in further rulemaking on the two-track system?**

A. USDA must first complete the final rulemaking needed to comply with the court final order and judgment and the Congressional amendments to the OFPA. Then USDA will initiate an advanced notice of proposed rulemaking to obtain input on how to address the concerns of interested parties in the organic community with respect to the two-track system for converting dairy replacement animals.