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NOP Proposed Rule: Organic Livestock and Poultry Standards

Public comment deadline is October 11, 2022

The National Organic Program (NOP) published a proposed rule that would amend the NOP regulations regarding the organic livestock and poultry production requirements by adding new provisions for livestock handling and transport for slaughter and avian living conditions; and expanding and clarifying existing requirements covering livestock health care practices and mammalian living conditions. A brief summary of the proposed rule is included in this letter. The NOP will accept written comments on this proposed rule until October 11, 2022. See below for instructions to submit comments.

The proposed rule may affect the following stakeholders (not an exhaustive list but identifies key entities likely to be affected by this action):

- Individuals or business entities that are considering organic certification for a new or existing livestock farm or slaughter facility;
- Existing livestock farms and slaughter facilities that are currently certified organic under the USDA organic regulations; and
- Certifying agents accredited by USDA to certify organic livestock operations and organic livestock handling operations.

For Full Text of the Proposed Rule:

1. Access via the following link:

<https://www.federalregister.gov/documents/2022/08/09/2022-16980/national-organic-program-nop-organic-livestock-and-poultry-standards>

OR

2. PCO will mail you a hard copy upon request. Contact Kyla Smith at the PCO office via email at kyla@paorganic.org or phone at 814-422-0251 x216.

The NOP issued a similar rule in 2017 that was withdrawn. This 2022 proposed rule is almost identical. Below is a description of the proposed changes to the current regulations.:

Definitions

- Proposing to add seventeen new terms to §205.2: beak trimming, caponization, cattle wattling, de-beaking, de-snooding, dubbing, indoors or indoor space, mulesing, non-ambulatory, outdoors or outdoor space, perch, pullet, ritual slaughter, soil, stocking density, toe clipping and vegetation.
- Two of more important definitions are that of indoor or indoor space and outdoor or outdoor space. The use of the term “enclosed” is an important differentiator as is how the space is being used.
 - The NOP is seeking feedback on if these two definitions are clear and allow for consistent implementation of indoor and outdoor space requirements.

Livestock Health Care Practice Standard

- Feed ration sufficiency must be demonstrated by appropriate body condition of livestock via monitoring by the operator and verified during inspection.
- Physical Alterations:
 - Allowed to be performed to benefit the welfare or hygiene of the animal, identification purposes or safety only.
 - Must be performed on livestock at a reasonably young age, by a competent person and with minimal stress and pain.
 - Prohibited:
 - Avian species: de-beaking and de-snooding, caponization, dubbing, toe clipping of chickens, toe clipping of turkeys unless with infra-red at hatchery, beak clipping after 10 days of age.
 - Mammalian species: tail docking of cattle, wattling of cattle, face branding of cattle, tail docking of sheep shorter than the distal end of the caudal fold and mulesing of sheep.
 - Restricted (may not be routinely used but may be performed as needed to improve animal welfare if alternative methods to prevent harm failed):
 - Needle teeth clipping (no more than the top 1/3 of the tooth) and tail docking in pigs.
- Surgical procedures on livestock to treat an illness must be done in a manner that minimizes pain, stress, and suffering. require that all surgical procedures for treatment of disease be undertaken in a manner that employs best management practices in order to minimize pain, stress, and suffering, and only with the use of anesthetics, analgesics, and sedatives as listed in § 205.603(a) and (b).
- Administration of drugs, other than vaccines, is allowed in the presence of illness or to alleviate pain and stress. Synthetic medications may be administered in the presence of illness or to alleviate pain and suffering, provided the medications are allowed under §205.603. Vaccines are still permitted at any time.
- Milk from an animal treated with an allowed substance in § 205.603, which has a withholding time, may not be sold, labeled, or represented as organic during that withholding time. However, organic animals or breeder stock may continue to provide milk for organic calves on the same operation during the withholding time.

- Prohibition on the use of synthetic or non-synthetic hormones to promote growth, or for production or reproductive purposes. This is the status quo – hormones allowed as medical treatments only.
- Forced molting or withdrawal of feed to induce molting is prohibited.
- Prohibit the following methods of euthanasia: suffocation, manual blows to the head by blunt instrument or manual blunt force trauma, and use of equipment that crushes the neck (e.g., killing pliers or Burdizzo clamps).
- Monitoring and Recordkeeping:
 - Identify and record treatment of sick and injured animals in animal health records.
 - Must have written euthanasia plans for sick or injured livestock.
 - Must monitor lameness and record incidents and causes.
 - Ammonia levels: once reach 10 ppm, operation must implement plan to reduce. 25 ppm is maximum allowed.
 - Parasite control plans must be kept to ensure that parasiticides are not used routinely.
 - Temporary confinement must be recorded.
 - Transportation records demonstrating that transportation times are not detrimental to the welfare of the animal.

Mammalian Living Conditions (separating from avian living conditions)

- Must be able to feed simultaneously.
- Shelter must allow room to move, stretch limbs and lie down (over 24 hour period).
- Livestock must be kept clean through the use of clean, dry bedding (must be certified organic if roughages).
- Confined housing with stalls:
 - One stall for each animal, except for swine that are housed in groups and are routinely fed over a 24 hour period.
 - Cages are prohibited.
 - Tie stall and freestall barns are permitted so long as production practices are compatible.
- Dairy Young Stock:
 - Animals may be individually housed until weaning (no longer than 6 months) and must be able to turn around, lie down, stretch out while lying down, get up, rest, and groom themselves. They must also be allowed to see, smell and hear other animals. After weaning must be housed in groups with access to the outdoors.
- Swine:
 - Must be housed in groups except for boars.
 - All exercise areas (indoors and outdoors) must allow for rooting.
 - Sows are allowed to be individually housed during farrowing and suckling periods.
 - Piglets must not be kept on flat decks or in piglet cages.
 - Prohibits the use of flat decks or piglet cages.
 - Indoor and outdoor space must allow for rooting (including during temporary confinement).
- Outdoor Areas:
 - When includes soil, then maximal vegetative cover must be maintained as appropriate.
 - May deny outdoor access temporarily when conditions would endanger soil or water quality, as well as other reasons previously allowed by the regulations.

- Temporary Confinement:
 - Clarification regarding the allowance of temporary confinement during breeding. Not allowed for observing estrus.
 - Allowed for animals sold as youth projects where the facilities are non-organic (organic certification of these facilities is not required).

Avian Living Conditions (separate from mammalian living conditions section)

- Provides for minimum indoor and outdoor space requirements.
- Indoor Areas:
 - Must allow for birds to move freely and exhibit natural behaviors, including scratch areas and dust bathing.
 - For layers and mature birds, artificial light may be used to extend the day length for up to a total of 16 hours per day. Must be lowered gradually to encourage perching/settling for night.
 - Exits must be appropriately distributed so all birds have ready access and operations subject to 21 CFR 118 must prevent animals from entering poultry house.
 - Slatted floors are permitted but at least 30% of the flooring must be solid floor areas and sufficient litter must be available for dust baths.
 - For birds that perch, six inches of perch space must be provided per bird except in tiered housing, where perches must provide for 55% of all birds to perch at the same time.
 - Maximum indoor stocking density (live bird weight):
 - Broilers, turkeys and other meat type species – 5 lbs/ft².
 - Pullets – 3 lbs/ft².
 - Layers:
 - Mobile Housing – 4.5 lbs/ft².
 - Aviary systems – 4.5 lbs/ft².
 - Slatted/mesh flooring – 3.75 lbs/ft².
 - Floor litter systems – 3 lbs/ft².
 - Other housing – 2.25 lbs/ft².
 - Indoor space used to calculate densities includes all flat areas available to birds, excluding nest boxes.
- Outdoor Areas:
 - 50% soil cover with maximal vegetative cover that allows birds to carry out natural behaviors such as dust bathing.
 - 50% of the outdoor area may be gravel, concrete or surfaces other than soil with vegetative cover.
 - Must be designed to encourage birds access to the outdoors on a daily basis. Must be provided at an early age to train birds to go outdoors.
 - Porches that are enclosed (e.g. with a roof and screens that prohibit birds from entering other outdoor spaces) may not be calculated as outdoors.
 - Maximum outdoor stocking density:
 - Broilers, turkeys and other meat type species – 5 lbs/ft².
 - Pullets – 3 lbs/ft².
 - Layers – 2.25 lbs/ft².
- Temporary Confinement (allowed for the following reasons):
 - Extreme temperature (e.g. below 40F or above 90F) and other inclement weather.
 - First 4 weeks of life for broilers and other meat birds and 16 weeks for pullets or until fully feathered if other species than *Gallus*.

- Conditions when health, safety or well-being of bird is in jeopardy (including documented disease outbreak in region or migratory pathway).
- Risk to soil or water quality, including reseeded of outdoor space.
- Treatment of illness or injury.
- Sorting and shipping of birds and poultry sales.
- Nest box training (must not exceed 5 weeks over the life of the bird).
- Youth projects (e.g. 4-H and National FFA) for no more than one week prior to the event and up to 24 hours after the birds have arrived home after the event.

Transportation and Slaughter

- Must be clearly identified as organic, which must be traceable for the duration of transport.
- Animals must be fit and healthy for transport to sale or slaughter. Calves must have dry navel cord and be able to stand and walk on their own. Non-ambulatory animals must not be transported for slaughter or sale but rather be medically treated or euthanized.
- All transportation (e.g. livestock trailers, shipping containers, trucks) must be appropriately ventilated.
- Organic feed and water must be provided if time between loading and unloading exceeds 12 hours.
- Bedding must be provided in order to keep animals clean and dry (except is not required in poultry crates). Roughages used for bedding must be organic.
- Must have written emergency plans.
- Must be in full compliance with existing humane handling and slaughter laws and provide any records of noncompliance and corrective action documents during annual organic inspection.

Implementation and Compliance Dates

	Time from Effective Date of the Final Rule	
All Provisions – except for broiler/eggs (listed below)	1 year	
Broiler Operations’ indoor space	3 years	
Egg Operations’ outdoor space	Option 1	Option 2
● Operations certified <i>prior</i> to the effective date	5 years	15 years
● New entrant certified <i>within 3 years after</i> effective date	5 years	5 years
● New entrant certified <i>more than 3 years after</i> effective date	Immediate	Immediate

Instructions for Submitting Comments: Comments must be received by 11:59PM ET October 11, 2022 and must reference the docket number AMS-NOP-21-0073. Submit written comments online via https://www.regulations.gov/-!documentDetail;D=AMS_FRDOC_0001-1423, or by mail to Erin Healy, MPH., Director Standards Division, National Organic Program, USDA-AMS-NOP, Room 2646-So., Ag Stop 0268, 1400 Independence Ave. SW., Washington, DC 20250-0268.

AMS is specifically seeking comments on the following topics:

1. Do the proposed amendments provide enough clarity to farmers, handlers, and certifying agents to be able to comply with the proposed requirements?
2. Do the proposed definitions clearly and adequately distinguish “indoor” and “outdoor” spaces? Do the definitions sufficiently address spaces that may be enclosed by fences and/or overhead netting?
3. How can organic producers provide poultry exit doors for meaningful outdoor access while simultaneously preventing animals (that could introduce or transfer Salmonella) from entering poultry houses?
4. Do the assumptions and estimates outlined in the Regulatory Impact Analysis and Regulatory Flexibility Analysis accurately reflect the current practices and production rates among organic poultry and egg producers? Specifically, to what degree do the proposed requirements align with third-party animal welfare certification programs and current industry practices? Are assumptions about welfare surplus valid? Is the period of analysis and the estimates about the useful life of a poultry house appropriate? Are AMS’s benefit estimates for broilers appropriate? Are AMS’s cost estimates for small producers accurate? Are AMS’s estimates for the paperwork burden accurate?
5. Do the proposed amendments to § 205.239 related to mammalian livestock reflect current practices among organic mammalian livestock producers or impose new requirements on these operations?
6. What is an appropriate and feasible implementation timeframe for the proposed changes? Specifically, AMS seeks comment on the following implementation approach and timeframes as outlined in the Implementation and Compliance Dates table listed above. Additionally, AMS seeks comments on alternative timeframes to those presented above for the outdoor space requirements for layer operations, including justification for alternatives and data on the costs and benefits.

These options and their costs and benefits are discussed in Section V (“Executive Orders 12866 and 13563—Executive Summary”). Detailed information can be found in the Regulatory Impact Analysis for this proposed rule.

7. Does market failure and consumer confusion exist in regards to organic animal welfare practices?
8. Does OPFA authorize these regulations on animal welfare and livestock production practices?

The Organic Trade Association (which PCO is a member of) has put together a toolkit for livestock operators (<https://ota.com/2022-olps-take-action-toolkit-livestock-sector>) with great resources to help operations further understand the impacts to their operation as well as templates for comments. Please utilize this or other resources to aid your understanding of these proposed changes and how to effectively submit a comment on this topic to NOP. If you’d like a hard copy or have any questions on the proposed changes and how to submit a comment, please reach out to me!

Best,

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