



CCOF

Organic Certification

Education & Outreach

Political Advocacy

Promotion

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USDA-AMS-NOP
Room 2646-So., Ag Stop 0268
1400 Independence Ave. SW
Washington, D.C. 20250-0268

June 10, 2016

Re: docket number AMS-NOP-15-0012; NOP 15-06PR; RIN 0581-AD44

National Organic Program; Organic Livestock and Poultry Practices Proposed Rule

Dear Dr. Lewis and National Organic Program,

California Certified Organic Farmers (CCOF) strongly supports the proposed Organic Livestock and Poultry Practices Proposed rule because it sets standards that align with organic values and that are critical to the success of organic livestock producers.

CCOF is a nonprofit organization founded in 1973 that advances organic agriculture for a healthy world through organic certification, education, advocacy, and promotion. CCOF is based in Santa Cruz, California, and represents more than 3,300 certified organic members in 42 states and three countries.

CCOF welcomes the opportunity to comment on this long-awaited rule and urges the National Organic Program (NOP) to proceed with rulemaking. The rule was developed with extensive public analysis and input over the last 14 years. During this time, CCOF and other stakeholders have submitted numerous public comments to the National Organic Standards Board (NOSB). Within this timeframe the NOSB discussed animal welfare during at least six public meetings and made two recommendations to the NOP.

Importantly, the rule has specific, verifiable, and achievable standards. The over 200 livestock operations certified by CCOF—which include dairy, beef, poultry, and pork producers—are already in compliance with the majority of the proposed standards. Given the success of these operations, CCOF is confident that organic livestock producers will continue to thrive under this rule in today's flourishing organic marketplace.

Under the proposed rule, some producers will be required to modify some practices, and inspections may become more nuanced. However, the rule will finally level the playing field for certified organic livestock producers. Some certifiers allow housing and confinement practices that CCOF has never allowed, including porches for poultry production. The uneven implementation of organic livestock



standards between certifiers allows some certified operations to unfairly compete with CCOF-certified livestock producers who meet consumer expectations by providing high standards of care for their livestock. Therefore, the rule will bring much-needed clarity to livestock standards and ensure that certifiers make consistent, fair assessments of organic livestock operations.

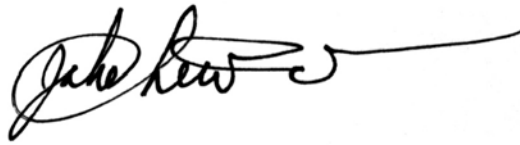
CCOF also offers the attached comments and specific revisions to the rule language. If NOP adopts the suggested revisions, then CCOF is confident that the final rule will set forth achievable standards that uphold organic values.

Thank you for your careful consideration of our comments and suggested revisions.

Sincerely,



Cathy Calfo, Executive Director/CEO



Jake Lewin, President, CCOF Certification Services LLC

CCOF is a nonprofit organization founded in 1973. CCOF serves as a trade association for more than 3,300 certified organic producers in 42 of the United States and three countries.



Comments and Proposed Revisions to the Organic Livestock and Poultry Practices Proposed Rule

The following comments and revisions are based on CCOF's experience certifying livestock operations for more than 20 years (before and after the NOP), as well as direct input from CCOF's over 200 certified livestock operations, which represent a diverse range of scale and types of operations.

Definitions in §205.2

Unless otherwise indicated, CCOF supports the new definitions as proposed.

Soil The definition of soil may have unintended consequences on other aspects of the organic standards, and a redundant definition of soil is too specific for the purposes of the proposed rule. Instead, the phrase "certified ground" should be used in place of reference to "soil" in appropriate parts of the livestock rules.

Livestock Health Care Practice Standard in §205.238

§205.238(a)(2) CCOF supports adding "resulting in appropriate body condition" to the feed ration requirement because body condition verification is a central factor in assessing animal welfare. The standard supports CCOF's decision to issue non-compliances to operations whose animals had poor body condition.

However, the modifier "appropriate" may be difficult to quantify. Therefore, the Agricultural Marketing Service should issue the proposed guidance on assessing body condition to complement this rule.

§205.238(a)(5) CCOF supports specifying that certain physical alterations may be performed in order to benefit or identify the animal, and that they should be done at a young age with minimal stress and pain by a competent person. CCOF has historically supported limitations on these alterations rather than complete prohibition.

§205.238(a)(5)(i) CCOF supports the specified limits on alterations in pigs.

§205.238(a)(5)(ii) CCOF supports the listing of prohibited physical alterations. CCOF already prohibits each listed physical alteration.

§205.238(a)(7) CCOF supports specific humane conditions for surgery on animals.

§205.238(a)(8) **Wording change necessary.** CCOF supports requiring producers to monitor lameness and keep records on the percent of animals suffering from lameness and the cause. Lameness is a good indicator of an animal's health, and CCOF-certified producers already monitor lameness as part of their Organic System Plan. However, the rule provides no guidance on what percent of lameness in a flock or herd would constitute a non-compliance.



To ensure that this rule is measurable and enforceable, CCOF offers the following alternative language (insertions in bold, deletions in strikethrough):

“Monitoring of lameness and keeping **an annual** records of the percent of the herd or flock suffering from lameness and the causes. **If above average lameness for the region and production type persists in more than 10% of a herd or flock for more than two years, a producer must implement a plan to reduce incidence of lameness.**”

§205.238(a)(9)

CCOF supports specifying that the ammonia levels in poultry houses must be less than 25 parts per million indoors and requiring that producers take action to reduce ammonia levels if they reach 10 parts per million. This is an important rule because ammonia is a corrosive fume and high levels can negatively impact animal well-being in a confined facility. While not all poultry facilities pose equal challenges in maintaining good air quality, this rule is scale-neutral.

§205.238(b)(3) and §205.238(c)(2)

Wording change necessary. These two provisions specify the conditions under which medications and drugs can and cannot be administered to animals. CCOF opposes use of subtherapeutic levels and routine use of drugs; however, preventative health care including administration of targeted prophylactic materials can help keep animals healthy and the rules should support their use.

CCOF historically has questioned the prohibition on administering animal drugs in the absence of illness because “animal drug” as defined in federal law¹ includes preventative products; thus, the wording as proposed prohibits producers from utilizing materials that are designed to keep animals healthy and prevent illness.

§205.238(b)(3) and §205.238(c)(2) should have consistent language because they both address when synthetic medications can and cannot be administered.

238(b)(3) reads “Synthetic medications may be administered in the presence of illness or to alleviate pain and suffering; Provided, that such medications are allowed under §205.603.”

238(c)(2) states [The producer of an organic livestock operation shall not] “Administer any animal drug in the absence of illness or to alleviate pain or suffering, with the exception of vaccinations and other veterinary biologics.”

¹ “The term ‘drug’ means ... articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals ...” 21 U.S.C. Title 21 - Food And Drugs, Chapter 9 - Federal Food, Drug, And Cosmetic Act, Subchapter II – Definitions Sec. 321 (g)(1).



CCOF offers the following wording to make these provisions consistent with each other and to allow for the use of preventative medicine in organic livestock production (insertions in bold, deletions in strikeout):

§205.238(b)(3) “Synthetic medications **and prophylactics authorized by the certifier** may be administered **to prevent illness, or** in the presence of illness or to alleviate pain and suffering; Provided, that such medications are allowed under §205.603.”

§205.238(c)(2) [The producer of an organic livestock operation shall not] “Administer any animal drug in the absence of illness or ~~to alleviate pain or suffering,~~ with the exception of vaccinations, **prophylactics authorized by the certifier,** and other veterinary biologics.”

§205.238(c)(1)

Wording change necessary. This provision specifies that products from an animal to whom antibiotics or a material that is not on the National List has been applied shall not be sold as organic. It also specifies that “Milk from animals undergoing treatment with synthetic substances allowed under §205.603 having withholding time, cannot be sold as organic but may be fed to their own offspring.” If a substance is allowed under §205.603, it is not a prohibited material.

Historically, CCOF supports calves being allowed to nurse from their own mothers. There are times when milk withheld from treated dairy animals is pooled and fed to calves. Thus CCOF suggests that the wording be modified to say (insertions in bold, deletions in strikeout):

“Milk from animals undergoing treatment with synthetic substances allowed under §205.603 having withholding time, cannot be sold as organic but may be fed to ~~their own offspring~~ **calves on the same operation.**”

The section also reiterates that milk from animals being treated with prohibited substances may not be sold as organic. CCOF supports this as being consistent with organic standards and consumer expectations.

§205.238(c)(3)

CCOF supports expanding the prohibition on use of hormones to include for purposes of “production or reproduction.”

§205.238(c)(8)

CCOF strongly supports clarification that withholding medical treatment from an animal in order to maintain its organic status is not allowed.

§205.238(c)(9)

CCOF supports specifying that a [producer will not] “Neglect to identify and record treatment of sick and injured animals in animal health records.” CCOF already requires livestock producers to maintain treatment records for sick and injured animals per the requirements of §205.103.



§205.238(c)(10) **Wording change necessary.** This section specifies that organic producers will not “Practice forced molting or withdrawal of feed to induce molting.” Historically CCOF has pointed out that any molting is “forced,” but that inducing molting by withholding feed or water should be prohibited.

CCOF recommends broadening this rule to prohibit any methods used to force molting and suggests the following language (insertions in bold, deletions in strikeout): “Practice forced molting, ~~or~~ withdrawal of feed, **or other interventions** to induce molting.”

§205.238(d) CCOF supports requiring that livestock producers develop an internal parasite management plan. CCOF already requires livestock Organic System Plans to include an internal parasite management plan. CCOF has historically opposed a separate requirement for such a plan as redundant and requiring excessive paperwork. However, CCOF supports requiring an internal parasite management plan to ensure all livestock producers are meeting rigorous standards.

§205.238(e) CCOF supports new standards on euthanasia. Humane animal care must include humane methods of euthanasia in cases of extreme illness or injury.

One significant area of activity conducted on farms that is not addressed in the euthanasia rules is methods for depopulating flocks. NOP should investigate this subcategory of euthanasia and consider developing guidance on depopulating flocks.

Mammalian Livestock Living Conditions in §205.239

§205.239(a)(1) CCOF supports specifying that all animals should be provided year-round access to certified ground according to the species, stage of life, climate, and the environment. Removing the requirement that all animals must be able to feed simultaneously without crowding, while retaining the requirement that they be able “to feed without competition for food in a manner that maintains all animals in a good body condition,” also makes sense.

§205.239(a)(3) CCOF supports specifying that animals should be kept clean and have access to clean and dry bedding. CCOF currently utilizes the AAFCO list of roughages with regards to bedding materials and finds this to be effective and enforceable.

§205.239(a)(4)(i) CCOF strongly supports specifying that animals shall have “sufficient space and freedom to lie down in full lateral recumbence, turn around, stand up, fully stretch their limbs without touching other animals or the sides of the enclosure, and express normal patterns of behavior.” This requirement contributes to animal welfare and health and is important in ruminant production. It will



prevent the use of gestation crates in hog production and other confinement practices in organic mammal production.

§205.239(a)(4)(iv) CCOF supports specifying that bedding shall keep animals clean, dry, and free of lesions.

§205.239(a)(6) **Wording change necessary.** Cleanliness is an important strategy to maintain animal health and prevent disease. CCOF already requires that sanitation be a part of the producer’s Organic System Plan. CCOF supports this requirement as providing organic inspectors with a basis for enforcing cleanliness when needed. “Is it clean?” is a fundamental question to ask when inspecting organic livestock facilities.

The requirement to disinfect “utensils” raises questions about what is a utensil in this context.

CCOF suggests that “tools” replace “utensils” in this rule so that it reads (insertions in bold, deletions in strikeout): “Housing, pens, runs, equipment, and ~~utensils~~ **tools** shall be properly cleaned and disinfected as needed to prevent cross infection and build-up of disease-carrying organisms.”

§205.239(a)(7)(i-iii) CCOF strongly supports the age and time frames because they provide specific guidance for enforcement. Calf management poses many challenges but CCOF-certified farms do an excellent job with it. For most CCOF-certified operations, the proposed regulations reflect their current practices.

§205.239(a)(8-11) CCOF supports the proposed swine housing and outdoor access regulations.

§205.239(a)(12) **Wording change necessary.** Specifies that “At least 50 percent of outdoor access space must be soil” except under certain conditions.

CCOF requests that “soil” be replaced with alternate language so that the rule reads (insertions in bold, deletions in strikeout): “At least 50 percent of outdoor access space must be ~~soil~~ **certified ground.**”

§205.239(b)(7) CCOF supports temporary confinement for breeding and disallowance for confinement to observe estrus.

§205.239(b)(8) CCOF supports and thanks NOP leadership for providing a fair exception that aligns with the CCOF Foundation’s work to cultivate the next generation of organic farmers through its Future Organic Farmer Grant Fund. This rule specifies that temporary confinement of up to 1 week prior to a fair or other demonstration may be imposed for purposes of 4-H, FFA, and other youth projects, and that the facilities where such activities are held do not have to be



certified organic for the animals to retain certified status as long as feed and other organic requirements are met.

§205.239(d) CCOF supports removing the requirement that all animals be fed simultaneously.

Avian Living Conditions in §205.241

§205.241 CCOF supports distinguishing between avian and mammalian living conditions because it will assist in clarifying the unique needs for both types of animals.

§205.241(a) CCOF supports requiring that natural behaviors are accommodated, and birds are provided year-round outdoor access, exercise, fresh air, sunshine, dust bathing materials, etc.

§205.241(b)(1) **Wording change necessary.** This rule and §205.241(b)(11) are redundant because both list general space requirements for birds.

CCOF suggests consolidating them into a single section §205.241(b)(1) that reads (insertions in bold, deletions in strikeout): **“Poultry housing must be sufficiently spacious to allow all birds to move freely, stretch their wings, stand normally, and engage in natural behaviors. All birds must be able to move freely, and engage in natural behaviors.”**

§205.241(b)(2-4) CCOF supports the specified indoor space requirements including ammonia levels, use of light, and acceptable flooring types.

§205.241(b)(5) **Wording change necessary.** In past comments, CCOF noted that exit holes on one long side of a poultry house could provide adequate access to the outdoors for all birds. Distance from the ground might be more of an issue for some poultry houses: access to the outdoors is facilitated when birds are can exit and re-enter the house with ease. Finally, the exit hole requirements are repeated in §205.241(c)(2).

CCOF suggests combining §205.241(b)(5) with §205.241(c)(2) and adjusting the wording to (insertions in bold, deletions in strikeout): **“Poultry houses must have sufficient exit areas ~~appropriately distributed around the building,~~ to ensure that all birds have ready access to the outdoors **and can easily re-enter the house. Exit areas for birds to get outside must be designed so that more than one bird at a time can get through the opening and that all birds within the house can go through the exit areas within one hour.**”**

§205.241(b)(6) CCOF supports the proposed roosting requirements.



- §205.241(b)(7-9)** CCOF supports the proposed indoor housing densities. The proposed stocking rates exceed California’s henhouse rules, which is appropriate as organic standards should be the strongest and most humane possible.
- §205.241(b)(10)** CCOF supports the requirement that all birds have access to scratch.
- §205.241(b)(11)** CCOF suggests deletion as being redundant. As noted in the comment on §205.241(b)(1), CCOF finds these two rules to be redundant and recommends they be consolidated into a single rule.
- §205.241(c)(1)** CCOF supports the general outdoor space requirements.
- §205.241(c)(2)** CCOF suggests deletion as being redundant. CCOF recommends adding §205.241(c)(2) specifying exit area requirements into §205.241(b)(5); deleting the current §205.241(c)(2); and re-numbering the remaining sections of this rule [§205.241(c)(3-8)] accordingly (see comment on §205.241(b)(5) above).
- §205.241(c)(3-5)** CCOF supports the outdoor stocking density requirements.
- §205.241(c)(6)** CCOF strongly supports the determination that poultry house porches are part of indoor, not outdoor, access. CCOF has never certified poultry operations that use porches and has consistently opposed porches in certified organic operations. This standard is compatible with consumer expectation of organic poultry production practices, meaningful access to outdoors, and humane organic standards.
- §205.241(c)(7)** CCOF supports the listed shade options.
- §205.241(c)(8)** **Wording change necessary.** CCOF has long maintained that what is under birds’ feet is more important than what is over their heads when it comes to outdoor access.
- For consistency with CCOF’s recommendation to delete the definition of “soil,” we suggest this alternative wording (insertions in bold, deletions in strikeout):
“At least 50 percent of outdoor access space must **allow birds to be soil directly in contact with certified ground.”**
- §205.241(d)(1)** CCOF supports the temperature allowances for temporary confinement. In past comments, CCOF has encouraged NOP to develop a high temperature standard for confinement as well as a low temperature standard because high temperatures commonly impact poultry producers in the west. This important detail is now included in the rule.
- §205.241(d)(2)** CCOF supports stage of life being a valid reason for temporary confinement.



- §205.241(d)(3)** CCOF fully endorses the biosecurity provisions set forth in this rule. CCOF was disappointed to learn that the California State Veterinarian submitted a letter to NOP opposing the proposed access to outdoors standards for poultry on the basis they could lead to disease. The proposed rule allows birds to be confined in case of “a documented occurrence of a disease in the region or relevant migratory pathway.” These exceptions are reasonable, enforceable, and will protect organic flocks from disease.
- §205.241(d)(4-7)** CCOF supports these additional reasons for temporary confinement.
- §205.241(d)(8)** CCOF supports and, again, thanks NOP for taking leadership to specify commonsense rules that will facilitate youth showing organic livestock at 4-H and FFA events.
- §205.241(e)** CCOF strongly supports the proposed standard, which requires organic poultry producers to dispose of manure in a way that avoids contamination of crops, soil, or water and optimizes nutrient recycling. It complements other requirements in the organic standards to maintain or improve soil and water quality.

Transport and Slaughter in §205.242

- §205.242(a)(1)** CCOF supports the requirement that animals and the pens in which they’re held must be clearly identified and labeled as organic during transportation.
- 205.242(a)(2)(i)** **Wording change necessary.** Historically, CCOF requested that “sick” be defined to reduce the possibility that animals are withheld from slaughter due to a minor ailment that does not impact the quality of slaughter products.
- CCOF suggests the following language change that is consistent with humane slaughter practice and readily verified (insertions in bold, deletions in strikeout):
 “~~Sick, injured, weak, disabled, blind, and lame~~ **Non-ambulatory** animals must not be transported for sale or slaughter. Such animals may be medically treated or euthanized.”
- §205.242(a)(3-4)** CCOF supports the transportation ventilation and bedding requirements.
- §205.242(a)(5)** CCOF supports the requirement that water and organic feed be provided animals if they will be in transport for more than 12 hours.
- §205.242(a)(5)(i)** **Wording change necessary.** This clause specifies that transport of organic livestock must comply with existing federal regulations. CCOF supports all organic activities being in compliance with existing federal law but notes that it could be time or cost prohibitive for organic inspectors to inspect to regulations beyond the scope of the national organic standards.



Additionally, cross-references to external statutes may render the organic standards obsolete and in need of future revision should the external statutes significantly change. This has already happened: EPA’s List 4 of Inerts was referenced in the national organic standards but the rule is being revised and replaced with new guidance because EPA stopped maintaining the list.

Here and in §205.242(b)(1-2) and §205.242(c)(1), NOP should determine the specific elements of the cited laws they wish to incorporate into the standards and include generic language that reflect those requirements.

Here is an example of suggested alternate language (insertions in bold, deletions in strikeout):

“The producer or handler of an organic livestock operation must transport livestock in compliance with **existing federal statutes. Livestock cannot be transported for more than 28 consecutive hours without being unloaded for five hours for rest, water and food.** ~~the Federal Twenty-Eight Hour Law (49 U.S.C. 80502) and the regulations at 9 CFR 89.1–89.5.~~”

- §205.242(a)(5)(ii)** **Wording change necessary.** The phrase “non-compliant records” should be changed to “non-compliance records.”
- §205.242(a)(6)** CCOF supports requiring producers to have an emergency plan to address animal welfare issues that may arise during transport.
- §205.242(b)(1-2)** **Wording change necessary.** Five additional federal regulations are invoked in these two clauses. As noted re: §205.242(a)(5)(i), such cross referencing to other statutes could impede organic inspectors’ ability to verify compliance during an inspection of reasonable length and could become obsolete in the future. NOP should determine the specific elements of the cited laws they wish to incorporate into the standards and include generic language that reflect those requirements.
- §205.242(b)(3)** **Wording change necessary.** The phrase “non-compliant records” should be changed to “non-compliance records.”
- §205.242(c)(1)** **Wording change necessary.** See comments on §205.242(a)(5)(i) and §205.242(b)(1-2).
- §205.242(c)(2)** **Wording change necessary.** The phrase “non-compliant records” should be changed to “non-compliance records.”
- §205.242(c)(3)** CCOF supports the three avian slaughter requirements specified for operations exempt from the Poultry Products Inspection Act.

