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Paul Lewis Ph.D., Director
Standards Division, National Organic Program
USDA-AMS-NOP, Room 2646-So., Ag Stop 0268
1400 Independence Ave. SW.
Washington, DC 20250-0268

Docket No. AMS-NOP-15-0012, NOP-15-06PR, RIN 0581-AD44

Submitted electronically via <http://www.regulations.gov>

Re: Comments on the proposed rule National Organic Program: Organic
Livestock and Poultry Practices

Dear Dr. Lewis:

The Carolina Farm Stewardship Association (CFSA) provides the following comments on the National Organic Program's (NOP) proposed rule for Organic Livestock and Poultry Practices. CFSA is a member-based 501(c)(3) organization representing 2,500 farmers, businesses and consumers in North and South Carolina, with a mission to advocate, educate and build the systems to support a sustainable regional food system centered on organic agriculture and local food.

Founded in 1979, CFSA is the oldest sustainable agriculture organization in the Southeast. Our farm and business members range from the largest organic egg processors in the nation, to small scale operations selling organic eggs and poultry through direct marketing; from mid-scale dairy and grain farms selling in organic commodity markets, to slaughter facilities serving independent farmers; from five-plus- generation farm families, to young people from urban backgrounds and second-career farmers who have transitioned from successful businesses in non-food industries.

This diverse membership means that we are able to bring a wide range of farming and food experience and knowledge to bear in forming policy positions related to agriculture's potential role in human and environmental health, including animal welfare issues. CFSA has been actively involved in bringing animal welfare education to organic farmers in the Carolinas and has supported policies and programs designed to ensure consumers know how livestock are raised.

CFSA is a highly regarded leader on organic policy. CFSA teaches farmers how the NOP will impact their on-farm practices, provides guidance in appropriate record-keeping and on-farm mapping, and provides review of farmer's applications for certification. CFSA also works with farmers on Conservation Activity Plans. These plans are integral to obtaining organic

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PO Box 448 • Pittsboro, NC 27312 • Ph 919-542-2402 • Fax 919-542-7401
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certification, and give farmers access cost share through EQIP-OI to implement best management practices to improve water quality, address erosion and increase animal health. CFSA plays an important role building the local, organic supply chain in order to better enable farmers to meet consumer demand, including establishing and then spinning off an organic produce distribution company, Eastern Carolina Organics, that now moves certified organic produces from the Carolinas up and down the east coast. CFSA manages a certified organic incubator farm in Cabarrus County in North Carolina, Lomax Farm. CFSA trains a new generation of organic farmers at Lomax. Finally, CFSA hosts two annual conferences; our annual Sustainable Agriculture Conference draws about 1000 people to learn about local, organic agriculture, and the Organic Commodities and Livestock Conference (OCLC). This year, OCLC included a workshop hosted by Animal Welfare Approved to bring issues of animal welfare to the attention of organic livestock producers and to make them aware of the value of AWA's certification. The technical assistance and training that CFSA provides to transitioning and organic farmers informs the work the organization does on organic policy. From our advocacy for publicly funded organic research, to our efforts to encourage state departments of agriculture and commerce to make the organic supply chain more robust, CFSA promotes and supports the work our member farmers do every day.

In general, CFSA supports AMS's effort to increase the integrity of the USDA Organic label by addressing animal welfare. The proposed rule could result in a new model for raising both organic broilers and layers that enables farmers of all scales to compete successfully in the market for organic livestock products. Given that this rule is likely to spur innovation and research into the methods used to raise certified organic livestock, CFSA urges AMS to revisit these rules within seven years of implementation to ensure that they are not stifling innovations in pastured livestock management that would enable pasture-based producers to improve efficiency and compete effectively in the market for organic foods.

More specifically, CFSA recommends the following changes to the proposed rule.

Definitions

Pastured broiler housing

The proposed definitions in Sec. 205.2 related to poultry housing do not adequately reflect the actual practices of poultry farms using pasture-based production systems and should be revised.

CFSA member farmers are raising broilers in a pasture -based system, which doesn't meet any of the definitions provided in the proposed rule. Pasture-based broilers are raised in mobile structure. The structure typically has no floor, but instead is placed on vegetation and/or soil. The structure has a solid roof (usually fabric/lightweight plastic) or a combination of solid roof and netting.

Ensuring production quality and economic efficiency when raising broilers on pasture frequently requires confining the flock within these mobile structures. The mobile structure is sometimes used within a larger fenced paddock, with poultry netting set up to limit the birds' access to a portion of that paddock for maximum efficiency in management of pasture vegetation. The mobile structure is moved frequently to new ground.

Based on farmers actual production practices, pastured broiler housing should be defined separately, without reference to the indoor/outdoor dichotomy currently found in the proposed rule. The definition of pastured broiler house should focus on mobility of structures, frequent movement of the mobile structures, and access to vegetative ground cover. A suggested definition follows.

Pastured broiler housing. Poultry are only confined to fully enclosed shelters for no more than the first 28 days of their lives, to maintain high welfare and for brooding purposes. After that time, housing for pastured broilers consists of mobile covered structures moved no less frequently than every other day, to grassy fields, wooded lots, or a combination grassy field and wooded lot. The mobile, covered structures provide shade and safety for the poultry. The structures may have slatted, fenced, open, or otherwise non-solid floors allowing waste to return to the soil and giving poultry access to vegetative ground cover.

Pastured Housing

Farmers are also raising layers in a pasture-based system. In the proposed rule, pasture housing is defined as a mobile structure with 70% perforated flooring. The definition is confusing, because the proposed rule also states that pasture housing is exempt from the requirement that 30% of flooring must be solid with sufficient litter for dust bathing.

See § 205.241(b)(4)(ii). Rather than defining pastured housing by establishing a flooring requirement, the definition of pastured housing should instead focus on the mobility of the structure and its frequent movement.

The pastured housing definition should account for the fact that pastured layers are provided with shade by awnings attached to the mobile structures, and underneath the mobile structure. The mobile structure is sometimes used within a larger fenced paddock, with poultry netting set up to limit the birds' access to a portion of that paddock for maximum efficiency in management of pasture vegetation. The mobile structure is moved frequently to new ground.

Based on farmers actual production practices, pastured housing for layers and pullets should be defined defined by focusing on mobility of structures, frequent movement of the mobile structures, and access to vegetative ground cover. A suggested definition follows.

Pastured housing. A mobile structure for avian species consisting of covered structures moved no less frequently than every other day to grassy fields, wooded lots, or a combination grassy field and wooded lot. The mobile structure may provide shade for the poultry through the use of attached awnings, or by giving the birds access to shade underneath the structure.

Outdoors

The definition of outdoors should be clarified. The proposed rule excludes shade structures attached to indoor housing, including eaves, awnings, or underneath mobile structures, while allowing separate shade structures. This is illogical, and is difficult for farmers and certifiers to measure and assess. This rule places an undue hardship on producers, particularly for pastured operations, where birds are moved frequently. Requiring farmers to move not only pastured housing but also separate shade structures will make their operations even more costly and inefficient. The definition of outdoors should include areas under the attached eaves, awnings or underneath pastured housing or pastured broiler housing.

Clarity/ease of compliance of the proposed livestock health care practice standard in §205.238

Several of the proposed regulations related to health care found in §205.238 are unclear or present compliance difficulties. We raise these issues and encourage AMS to revise the standard to better enable farmers and certifiers to comply with the proposed animal welfare standards.

Ammonia Measurement

Ammonia measurement, found at §205.238(a)(9), is required by the proposed rule to ascertain whether levels need to be reduced. We are not aware of any easy/cost-effective measurement tool for ammonia levels. Research shows that it may not be possible to detect a difference between 10ppm and 25ppm, making it difficult for farmers to make measurable changes within the range the proposed rule articulates, and difficult for certifiers to assess compliance. Humans can detect ammonia odor at 5ppm, and poultry producers report that it is their general practice, when the odor is detected, to take control measures such as cleaning out the housing structure or increasing ventilation. Producers taking measures in response to odor detection should not be subject to additional testing costs, measurement requirements and documentation.

Appropriate Body Condition

The proposed rule adds a requirement that farmers provide feed to their livestock such that the animals exhibit appropriate body condition. See §205.238(a)(2). Use of the term “appropriate body condition” is a term of art, and therefore implies knowledge of body condition scoring. Providing certification agents with the education necessary to score animal body condition will result in significant training costs to certifying agencies. The subject is complex and appropriate body condition varies by species, breed, animal maturity, and whether the animal is raised for meat or other livestock products. Certifiers currently do not receive this level of training. Not only is appropriate body condition a complex thing for certifiers to assess, feed rations are not the only determinant of body condition. Tying appropriate body condition to feed could discourage certifiers and farmers from identifying other avenues to improve body condition. Because producers’ natural incentive is to ensure quality feed rations for their animals to maximize productivity, the NOP should require certifiers to assess and observe animal condition in a holistic way, focusing on signs of disease, sanitation, and excessive stress, rather than focusing on rations and their impact on appropriate body condition.

Alterations

§ 205.238(a)(5) proposes changes to how producers may alter livestock. The proposed changes should be clarified and revised. First, the rule fails to make clear who is a “competent person” to make alterations to livestock. AMS should make clear that producers are not required to have a veterinarian make alterations; a producer’s past experience, or producer’s employee’s experience, conducting alterations should be sufficient to establish competence. In the absence of such experience, NOP should define a minimum amount of training to establish competence, although such a training requirement should not necessitate post-secondary education.

The proposed rule prohibits castration, and we question the reason for this proposed change. Although not commonly practiced, castration is comparable in its impact on poultry to castration of mammals. Castration could allow for innovation in the market by allowing longer

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PO Box 448 • Pittsboro, NC 27312 • Ph 919-542-2402 • Fax 919-542-7401

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growout of broilers without loss of meat quality. Given that sterilization alterations are permitted under the proposed rule for mammalian species, we propose that AMS provide standards for caponization of poultry under the NOP to ensure humane treatment and appropriate pain management and post-procedure care.

Pain Management

There are some internal inconsistencies regarding pain management that should be resolved prior to publication of a final rule. Section 205.238(a)(7) allows for “the use of appropriate and allowed anesthetics, analgesics and sedatives” to to minimize pain, stress and suffering in surgical procedures; but § 205.238(c)(2) says organic producers must not “[a]dminister any animal drug ... to alleviate pain or suffering”. These two sections of the rule should be brought into harmony to avoid confusion on the part of certifiers and producers.

Forced Molting

Forced molting can be a beneficial tool for egg producers. It can promote egg and shell quality, increase egg production, foster long-term bird health, and increase the efficiency of flock management. Despite these benefits, § 205.238(c)(10) prohibits “forced molting or withdrawal of feed to induce molting.” The preamble to the proposed rule describes forced molting as the withdrawal of feed to induce molting; however, research indicates that there are nutritionally sufficient methods of feed reduction or of feed alteration, often in combination with other environmental conditions, that induce molting without total withdrawal of feed. Because forced molting can be accomplished in the presence of adequate nutrition, it will be confusing to describe forced molting as a practice accomplished by engaging in ‘withdrawal of feed to induce molting.’

To address the possible confusion, and to ensure healthy innovation, rather than completely prohibiting organic producers from using this livestock management practice, NOP should establish guidelines for certifiers regarding acceptable forced molting practices that include the provision of nutritionally sufficient feed rations.

Parasite Control

In order to obtain organic certification, livestock producers are already required to create a comprehensive plan to minimize internal parasites as part of their organic systems plans, so paragraph (d) is superfluous/duplicative. We suggest it be removed in the final rule.

Euthanasia

The euthanasia practices outlined at § 205.238(e) in the proposed rule should be expanded upon before the final rule is published. In particular, more specific guidance on acceptable euthanasia practices is needed. We suggest that AMS review and incorporate the requirements in the Ohio Livestock Care Standards, which may be found at [http://www.agri.ohio.gov/LivestockCareStandards/docs/Livestock%20Care%20Standards%20\(EFFECTIVE\).pdf](http://www.agri.ohio.gov/LivestockCareStandards/docs/Livestock%20Care%20Standards%20(EFFECTIVE).pdf). See pp.1-10.

Clarity/ease of compliance with Mammalian Livestock Living Conditions, § 205.239

§ 205.239(a) with respect to ruminants substantially duplicates the Pasture Rule, found at § 205.237, and therefore presents the risk of confusion for producers and certifiers. For instance, if you have to provide pasture during the grazing season, as is currently required by the Pasture Rule, why do producers and certifiers need to worry about 50% of outdoor area being soil, as is proposed in § 205.239(a)(12)? The proposed rule also fails to take into account that dairy animal welfare in some cases is better served by a being on a solid/concrete pad than being on non-vegetated soil.

The proposed rule requires shelter for all mammalian livestock that allow for “full lateral recumbence”, § 205.239(a)(4)(i). Cattle don’t lay down on their sides, so beef and dairy operations should not be held to a standard of supplying space for full lateral recumbence for these animals in the final rule.

Finally, for this section, we note that ‘Inclement’ weather, a term mentioned in § 205.239(b)(1), is vague and should be clearly defined in the final rule to ensure producers and certifiers know when animals can be confined or sheltered indoors.

Clarity/ease of compliance with Avian Living Conditions, § 205.241

Measuring stocking density in pounds will be very difficult/impracticable; while there is logic to it in terms of setting standards, much more practical guidance is needed to ensure that farmers and certifiers can easily comply.

AMS should establish stocking density for pastured broiler housing. We suggest that AMS consider the following stocking density standard for pasture broiler housing:

- a. For pasture housing that does not allow free movement of poultry to areas outside of the housing unit, a minimum of 0.7 square feet of covered indoor space is required per 5lbs of live bird.
- b. For pasture housing that includes exterior outdoor spaces, such as areas around the housing that are fenced in, where openings are provided allowing poultry to easily move in and out of the shelter:
 - i. a minimum of 0.5 square feet per 5 pounds of live bird of covered space is required as long as poultry are free to roam outside of the covered space; and
 - ii. A minimum of 0.5 square feet per 5 pounds of live bird of outdoor space must also be provided.

For pastured layers, we suggest that AMS consider requiring stocking density be calculated based on the entire paddock that is used for managing the flock, not just the portion of the paddock the flock may be confined to with poultry netting on any given day in the pasture rotation. This change would increase the labor efficiency of pasture based systems, encouraging farmers to raise their laying flocks on pasture. By not allowing the entire paddock area to be counted as outdoor space, the rule requires producers to have more paddock space than is necessary, discouraging the use of a paddock rotation program and promoting the stripping of forage cover from the soil, surface run-off and surface water pollution. Forage cover recovery is essential for maintaining healthy forage access for the birds.

In non-pastured production systems, requiring producers to have a sufficient number of openings large enough for a whole house-full of birds to go outside in one hour is infeasible and unnecessary, since the birds won’t all go out at once. Research by (Zeltner and Hirt, 2003)

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PO Box 448 • Pittsboro, NC 27312 • Ph 919-542-2402 • Fax 919-542-7401

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showed that only 22.5% of the flock would move in and out of the house at any given time. This number decreases to less than 10% as the flock's age.

In light of the fact that only a small portion of a flock in a non-pastured production system will leave the house at any one time, the area of outdoor space that has to be made available in these systems should reflect the actual likely number of birds out at once. AMS should base its stocking density for outdoor areas on the best management practice for the number of birds research shows will be out at once, instead of an available square feet per pound of outdoor space based on all birds being outside at once.

AMS should revise the proposed rules on stocking density to ensure that requirements don't stifle innovation in the development of high-welfare, efficient organic production systems, given the economic challenges small and mid-scale producers face to succeed.

The proposed rule sets a standard of 'sufficient natural light for an inspector to read and write.' This is subjective, and may create a substantial challenge for poultry producers in retrofitting houses to meet this subjective standard. We also question why this standard is necessary given that the proposed rule permits artificial light in poultry houses.

In the final rule, AMS should specifically state that vegetation is a sufficient enrichment to induce birds to go outside.

As mentioned above, it is very important that AMS count space under eaves, awnings and underneath mobile housing as outdoor space. The proposed rule excludes from the calculation of outdoor space shade structures attached to housing structures, including eaves, awnings, and underneath mobile structures, while allowing separate shade structures. This is illogical, and is difficult for farmers and certifiers to measure and assess. This rule places an undue hardship on producers, particularly for pastured operations, where birds are moved frequently. Requiring such farmers to move not only pastured housing but also separate shade structures will make their operations even more costly and inefficient. The definition of outdoors should include areas under the attached eaves, awnings or underneath pastured housing or pastured broiler housing.

We agree with AMS's decision to incorporate a temperature range in defining 'inclement weather' with respect to avian welfare. However, similar to situation with mammalian livestock, the term inclement weather is otherwise this is vague and needs more clarification in order to avoid subjective interpretation and confusion among producers and certifiers.

Finally, we encourage AMS to clarify who determines if a disease outbreak is occurring in a region or migratory bird flyway such that birds may be confined indoors. We believe that the fact that AMS is proposing to allow indoor confinement in the event of an outbreak of disease in a migratory bird flyway is an appropriate response to the threat that diseases such as Highly Pathogenic Avian Influenza (HPAI) present to poultry farm operators, organic and conventional alike. We disagree with comments that suggest that the requirement for outdoor access for avian species creates a disproportionate threat to the poultry industry by exposing organic flocks to interaction with wild birds that may be harboring HPAI or other diseases, both because of the proposed provision for indoor confinement in the event of the identification of the disease in a migratory bird flyway, and because the actual experience of HPAI in the US poultry industry. There is no consensus among veterinarians and scientists regarding the need for

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either permanent indoor confinement or outdoor access to prevent disease such as HPAI. Avian flu viruses generally carried by wild birds are almost invariably harmless to poultry (low pathogenicity avian influenza, or LPAI). Some LPAI strains, however, have the potential to mutate into “highly pathogenic avian influenza” (HPAI) strains, which are deadly to poultry. Research shows that the mutation of LPAI to HPAI occurs almost exclusively in crowded indoor poultry houses, and this is consistent with the theories of virulence transmission that highly virulent strains develop in crowded confinement where the host, even when sick and immobile, can continue to pass the virus to others. In these conditions, the success of the virus no longer depends on keeping the host mobile and alive.

The AI virus transmits through feces and does not easily survive sunlight and drying and so lower stocking densities and outdoor access can be part of the solution to AI, not the problem. Preventing future outbreaks of HPAI should involve addressing the root of the problem by building a system of poultry farming with low densities, outdoor access, and healthy birds with strong immune systems. And the experience of the 2015 HPAI outbreak was that the vast majority of disease and flock loss occurred by the rapid spread of the virus from confinement farm to confinement farm: HPAI viruses have been shown to spread from confinement poultry farms, even when no wild birds are involved, by people (veterinarians, farm workers, catchers, vaccination crews), trucks, water, feed, and shared equipment. Even flies, which are impossible to keep out of poultry houses, can be carriers, and recent USDA findings suggest that HPAI can be transmitted through air and wind. Therefore, a complete barrier between indoor houses and the outside world is a solution in theory, but not in practice. Total biosecurity is impossible, whether on pasture-based farms or in confinement operations. Therefore, the threat of disease must be balanced against the benefits other management and welfare practices, and in the case of organic production systems the weight of epidemiological evidence, the market expectations for animal welfare including meaningful outdoor access, and the availability of appropriate management practices under the proposed rule outweighs the unproven benefits of confinement of birds in organic systems to avoid HPAI.

Rebuttal of claims that pastured systems are unsafe/inhumane

We call on AMS to review the rule and remove anything that suggests that pastured systems are unsafe or inhumane. Pastured systems encourage natural behavior by poultry and swine and promotes strong immune system and robust animal health. Pastured systems can be managed to protect birds from predation, and the experience of the transition to mandatory outdoor access for poultry in the European Union shows that losses from predation in such systems are not significant. If done in accordance with best management practices, outdoor production systems are safe and humane.

Necessity of fixing the FDA's guidance on pastured systems for the salmonella rule

The Food and Drug Administration has published draft guidance for its rule on *Salmonella* prevention in shell eggs for pasture-based egg farming operations, and in this FDA at least recognized that pasture-based systems and outdoor management systems for layer flocks, like those that are contemplated in this proposed rule, exist. However, FDA's draft guidance is completely impractical for pastured and outdoor-access management systems, and not based in science. The costs of conforming to the standards in the guidance far outweigh the potential benefits in terms of preventing *Salmonella* contamination, and jeopardize the ability of producers to provide high-welfare conditions for layer flocks. AMS must work with FDA to

revise this draft guidance to ensure farmers are able to meet consumer expectations for animal welfare in organic systems.

Transport and slaughter

We applaud the proposed rule for its recognition of farmers processing poultry under exemption. Some states are currently denying exempt producers the opportunity to make organic claims on their promotional materials, websites, and labels. We urge the NOP to conduct outreach to the states to ensure that producers complying with the NOP can label their product as such, whether processed through an exemption or not.

AMS needs to provide clarification in the final rule as to whether, and if so how, certification agents will need to become experts in FSIS rules. We are concerned that learning and enforcing FSIS rules could present an undue/unreasonable burden for certifiers and producers, especially for on-farm poultry processing. For instance, what can a processor do to prove they are in compliance with FSIS requirements? How can an operation slaughtering poultry on farm under exemption prove compliance with FSIS requirements.

We take this opportunity to remind AMS of the desperate need for technical assistance and support to develop better organic livestock processing infrastructure. Many livestock producers in the Carolinas who could be certified organic are not pursuing certification because of the lack of certified organic processing facilities in the area: There are only two processing facilities available for independent farms to use in processing poultry in North and South Carolina combined.

Economic Impact Analysis

There is a difference between organic price and cage free price of eggs, and organic egg sales tend to increase when the price differential with cage-free eggs decreases: This seems to indicate that consumers have a tolerance for a slightly higher price on organic eggs compare to merely cage-free. But recently, as the price of cage free eggs has decreased due to increasing supply, organic egg sales in mainline retail outlets have decreased while cage free sales have increased. This makes it likely that egg producers in that can't affordably make the switch to compliant poultry housing within the proposed time horizon in this proposed rule will switch to cage free, further increasing the supply and the price differential between cage free and organic. Absent significant investments in technical assistance and research, pasture-based producers will not be able to make up for the supply of organic eggs at the prices consumers are willing to pay that would be lost from a significant transition of litter floor/slatted floor/aviary housing producers currently operating under organic certification to cage-free production instead.

We also point out that AMS failed to calculate the impact of its rules on US organic grain producers from the potential reduction in demand for organic poultry feed. AMS needs to take this into account. Existing organic poultry operations using aviary/slatted/litter floor systems are the biggest buyers of grains from organic grain farmers in the Carolinas and new poultry operations launching in full compliance with AMS's proposed stocking density requirements will not make up for the market that will be lost if significant portion of existing aviary/slatted/litter floor producers exit the organic market. This underscores the critical importance of investments in technical assistance and research to allow pasture-based producers to better meet market demand and price expectations, and the need for a measured pace in transitioning the organic

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poultry industry to higher levels of outdoor access for birds, to ensure that rapid disruptions do not jeopardize the livelihoods of existing organic grain and livestock producers.

Timeframe

We strongly encourage that AMS provide producers two years to come into compliance with all provisions except outdoor space for avians, to ensure sufficient time to adapt and develop certifier guidance.

We propose that farms currently certified organic at the time of final publication of the NOP animal welfare rule have 7 years to come into compliance with outdoor space provisions. We suggest this longer time horizon in light of the economics of cage-free vs organic eggs, the recent commitment of a many of new facilities to organic egg market and farmers' sunk investments in facilities that may not have sufficient outdoor space available, and the need for public investment in support/technical assistance/infrastructure to allow truly pastured-operations to scale-up sufficiently and increase efficiency so that they can meet market demand at the market price.

Thank you for considering these comments.

Sincerely,



Roland McReynolds
Executive Director
Carolina Farm Stewardship Association