

2016 Proposed Rule

CFSA Comments

2017 Proposed Rule

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read:
Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.2 is amended by adding definitions for “Beak trimming”, “Caponization”, “Cattle wattling”, “Debeaking”, “De-snooding”, “Dubbing”, “Indoors”, “Mulesing”, “Outdoors”, “Perch”, “Pullet”, “Roost”, “Soil”, “Stocking density”, and “Toe clipping” in alphabetical order to read as follows:
§ 205.2 Terms defined.

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Beak trimming. The removal of the curved tip of the beak.

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Caponization. Castration of chickens, turkeys, pheasants and other avian species.

Cattle wattling. The surgical separation of two layers of the skin from the connective tissue for along a 2 to 4 inch path on the dewlap, neck or shoulders used for ownership identification.

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De-beaking. The removal of more than the beak tip.

De-snooding. The removal of the

PART 205—NATIONAL ORGANIC PROGRAM

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Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.2 is amended by adding definitions for “Beak trimming”, “Caponization”, “Cattle wattling”, “Debeaking”, “De-snooding”, “Dubbing”, “Indoors or indoor space”, “Mulesing”, “Non-ambulatory”, “Outdoors or outdoor space”, “Perch”, “Pullets”, “Religious slaughter”, “Soil”, “Stocking density”, “Toe clipping”, and “Vegetation” in alphabetical order to read as follows:

§ 205.2 Terms defined.

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Beak trimming. The removal of not more than one-quarter to one-third of the upper beak or the removal of onequarter to one-third of both the upper and lower beaks of a bird in order to control injurious pecking and cannibalism.

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Caponization. Castration of chickens, turkeys, pheasants, and other avian species.

Cattle wattling. The surgical separation of two layers of the skin from

turkey snood (a fleshy protuberance on the forehead of male turkeys).

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Dubbing. The removal of poultry combs and wattles.

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Indoors. The flat space or platform area which is under a solid roof. On each level the animals have access to food and water and may be confined if necessary. Indoor space for avian species includes, but is not limited to:

- (1) Pasture housing. A mobile structure for avian species with 70 percent perforated flooring.
- (2) Aviary housing. A fixed structure for avian species which has multiple tiers/levels with feed and water on each level.
- (3) Slatted/mesh floor housing. A fixed structure for avian species which has both a slatted floor where perches, feed and water are provided over a pit or belt for manure collection; and litter covering the remaining solid floor.
- (4) Floor litter housing. A fixed structure for avian species which has absorbent litter covering the entire floor.

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Mulesing. The removal of skin from the buttocks of sheep, approximately 2 to 4 inches wide and running way from the anus to the hock to prevent fly strike.

This definition of “indoors” did not encompass the style of housing used in pasture based systems. CFSA suggested creating a separate definition for Pastured Housing that would operate separately from the indoor/outdoor dichotomy.

CFSA’s comment pointed out that “70% perforated flooring” is confusing because the rule also states that pasture housing is exempt from the requirement that 30% of the flooring must be solid with sufficient litter for dust bathing. See §205.241 (b)(4)(ii).

The requirement for 70% perforated flooring was removed and mobile housing was created as a sub-category for indoor space in response to CFSA’s comment on inclusion of Pastured Housing in the definition of ‘indoors’.

the connective tissue for along a 2 to 4 inch path on the dewlap, neck, or shoulders used for ownership identification.

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De-beaking. The removal of more than one-third of the upper beak or removal of more than one-third of both the upper and lower beaks of a bird.

De-snooding. The removal of the turkey snood (a fleshy protuberance on the forehead of male turkeys).

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Dubbing. The removal of poultry combs and wattles.

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Indoors or indoor space. The space inside of an enclosed building or housing structure available to livestock. Indoor space for avian species includes, but is not limited to:

- (1) Mobile housing. A mobile structure for avian species with solid or perforated flooring that is moved regularly during the grazing season.
- (2) Aviary housing. A fixed structure for avian species that has multiple tiers or levels.
- (3) Slatted/mesh floor housing. A fixed structure for avian species that has both: (1) A slatted floor where perches, feed, and water are provided over a pit or belt for manure collection; and (ii) Litter covering the remaining solid

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Outdoors. Any area in the open air with at least 50 percent soil, outside a building or shelter where there are no solid walls or solid roof attached to the indoor living space structure. Fencing or netting that does not block sunlight or rain may be used as necessary.

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Perch. A rod or branch type structure that serves as a roost and allows birds to utilize vertical space in the house.

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Pullet. A female chicken or other avian species being raised for egg production that has not yet started to lay eggs.

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Roost. A flat structure over a manure pit that allows birds to grip with their toes as they would on a perch.

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Soil. The outermost layer of the earth comprised of minerals, water, air, organic matter, fungi and bacteria in which plants may grow roots.

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Stocking density. The weight of animals on a given unit of land at any one time.

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Toe clipping. The removal of the nail and distal joint of the back two toes of a male bird.

Defining outdoors as an area where there are “no solid walls or solid roof attached to the indoor living space” excludes eaves, awnings, or underneath mobile structures, which CFSA deemed illogical and difficult for farmers who would have to create separate shade structures.

This language includes eaves, awnings, or underneath mobile structures as outdoor space, removing the unnecessary burden of producers creating separate shade structures.

CFSA requested a definition for pastured housing that was dependent upon the mobility of structures, frequent movement of the mobile structures, and access to vegetative ground cover. The comment suggested focusing on the mobility of the structure instead of a flooring requirement, though it did not encompass the other factors.

floor.

(4) Floor litter housing. A fixed structure for avian species that has absorbent litter covering the entire floor.

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Mulesing. The removal of skin from the buttocks of sheep, approximately 2 to 4 inches wide and running away from the anus to the hock to prevent fly strike.

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Non-ambulatory. As defined in 9 CFR 309.2(b).

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Outdoors or outdoor space. Any area outside an enclosed building or enclosed housing structure, including roofed areas that are not enclosed.

Outdoor space for avian species includes, but is not limited to:

(1) Pasture pens. Floorless pens, with full or partial roofing, that are moved regularly and provide direct access to soil and vegetation.

(2) [Reserved]

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Perch. A rod or branch type structure above the floor of the house that accommodates roosting, allowing birds to utilize vertical space in the house

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Pullets. Female chickens being raised for egg production that have not yet started to lay eggs.

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■ 3. Section 205.238 is revised to read as follows:

§ 205.238 Livestock health care practice standard.

(a) The producer must establish and maintain preventive health care practices, including:

(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites.

(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants), resulting in appropriate body condition.

(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.

(5) Physical alterations may be performed to benefit the welfare or hygiene of the animals, or for identification purposes or safety.

Physical alterations, if used, must be performed on livestock at a reasonably young age, with minimal stress and pain

CFSA commented that the use of “appropriate body condition” implied knowledge of body condition scoring. Providing agents with the education necessary for this would result in significant training costs. It is also misleading to imply that sufficient feed ration would be the only way to improve body condition. CFSA suggested the NOP require certifiers to assess and observe animal condition in a way that focuses on signs of disease, sanitation, and excessive stress.

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Ritual slaughter. Slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.

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Soil. The outermost layer of the earth comprised of minerals, water, air, organic matter, fungi, and bacteria in which plants may grow roots.

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Stocking density. The weight of animals on a given area or unit of land.

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Toe clipping. The removal of the nail and distal joint of the back two toes of a bird.

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Vegetation. Living plant matter that is anchored in the soil by roots and provides ground cover.

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■ 3. Section 205.238 is revised to read as follows:

§ 205.238 Livestock care and production practices standard.

(a) The producer must establish and

by a competent person.

(i) The following practices must not be routinely used on pigs and must be used only with documentation that alternative methods to prevent harm failed: needle teeth trimming (no more than top one-third of the tooth) and tail docking.

(ii) The following practices must not be performed on a certified operation: de-beaking, de-snooding, caponization, dubbing, toe trimming of chickens, toe trimming of turkeys unless with infrared at hatchery, beak trimming after 10 days of age, 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.

(6) Administration of vaccines and other veterinary biologics.

(7) All surgical procedures necessary to treat an illness must employ best management practices to minimize pain, stress and suffering, with the use of appropriate and allowed anesthetics, analgesics and sedatives.

(8) Monitoring of lameness and keeping records of the percent of the herd or flock suffering from lameness and the causes.

(9) Ammonia levels in poultry houses must be less than 25 parts per million indoors. When ammonia levels in

CFSA commented that this rule fails to clarify who is considered a “competent person” to make alterations and requested that AMS specify the minimum amount of training to establish competence.

The phrase “appropriate body condition” was not further defined. However, the discussion portion of the text indicated that appropriate guidance would be published by the AMS to assist certifying agents with determining compliance.

Caponization was prohibited in this version of the rule. However, CFSA questioned this in the comments because it is comparable in its impact on poultry to castration of mammals. Instead of prohibiting the practice, CFSA suggested establishing rules for humane use of the practice.

While the discussion made it clear that producers are not required to have veterinarians make alterations to livestock, a minimum amount of training to establish competence was not defined. This can still lead to confusion over who is qualified to make alterations or prove competency.

maintain preventive health care practices, including:

(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites.

(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, proteins and/or amino acids, fatty acids, energy sources, and fiber (ruminants), resulting in appropriate body condition.

(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.

(5) Physical alterations may be performed to benefit the welfare of the animals, for identification purposes, or for safety purposes. Physical alterations must be performed on livestock at a reasonably young age, with minimal stress and pain and by a competent person.

(i) The following practice may not be routinely used and must be used only with documentation that alternative methods to prevent harm failed: Needle teeth clipping (no more than top one third

poultry houses exceed 10 parts per million, an operation must implement additional practices to reduce the ammonia levels below 10 parts per million.

(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, an operation may administer synthetic medications allowed under § 205.603. Parasiticides allowed under § 205.603 may be used on:

(1) Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced.

(2) Dairy stock, when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled, or represented as organic.

(3) 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.

(c) An organic livestock operation must not:

(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under

CFSA commented that they were not aware of any easy/cost-effective measurement tool for ammonia levels. Research has also shown that it may not be possible to detect a difference between 10ppm and 25ppm. CFSA also considers this rule to be unnecessary because humans can detect the odor around 5 ppm and it is common practice for producers to take measures in response to this odor detection.

Caponization is still prohibited in this version of the rule.

This section is contradictory to §205.238(c)(2) which does not allow drugs to be used to alleviate pain and suffering.

of the tooth) in pigs and tail docking in pigs.

(ii) The following practices are prohibited: De-beaking, de-snooding, caponization, dubbing, toe clipping of chickens, toe clipping of turkeys unless with infra-red at hatchery, beak trimming after 10 days of age, 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.

(6) Administration of vaccines and other veterinary biologics.

(7) All surgical procedures necessary to treat an illness shall be undertaken in a manner that employs best management practices in order to minimize pain, stress, and suffering, with the use of appropriate and allowed anesthetics, analgesics, and sedatives.

(8) Monitoring of lameness and keeping records of the percent of the herd or flock suffering from lameness and the causes. Certified operations may monitor lameness in a manner prescribed by the NOP.

(b) Producers may administer medications that are allowed under 205.603 to alleviate pain or suffering, and when preventive practices and veterinary biologics are inadequate to prevent sickness. Parasiticides allowed under § 205.603 may be used on:

§ 205.603, or any substance that contains a nonsynthetic substance prohibited in § 205.604. 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. Milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to organic livestock.

(2) Administer any animal drug in the absence of illness or to alleviate pain or suffering; with the exception of vaccinations and other veterinary biologics.

(3) Administer hormones for growth promotion, production or reproduction.

(4) Administer synthetic parasiticides on a routine basis.

(5) Administer synthetic parasiticides to slaughter stock.

(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act.

(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited substance must be clearly identified and neither the animal nor its products shall

CFSA pointed out that this was completely contradictory to §205.238(a)(7), pointed out above. This says animal drugs may not be administered to alleviate pain or suffering while above it says they may be used.

This section was changed to allow the use of synthetic medications to alleviate pain and suffering. This created consistency throughout the rule and alleviated any potential confusion.

(1) Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced; and

(2) Dairy stock, when used a minimum of 90 days prior to the production of milk or milk products that are to be sold, labeled, or represented as organic.

(c) An organic livestock operation must not:

(1) Sell, label, or represent as organic any animal or product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under § 205.603, or any substance that contains a nonsynthetic substance prohibited in § 205.604. Milk from animals undergoing treatment with synthetic substances allowed under § 205.603 cannot be sold as organic but may be fed to calves on the same operation. Milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to organic livestock.

(2) Administer synthetic medications unless:

(i) In the presence of illness or to alleviate pain and suffering, and

(ii) That such medications are allowed under § 205.603.

(3) Administer hormones for growth

be sold, labeled, or represented as organically produced.

(8) Withhold individual treatment designed to minimize pain and suffering for injured, diseased or sick animals, which may include forms of euthanasia as recommended by the American Veterinary Medical Association.

(9) Neglect to identify and record treatment of sick and injured animals in animal health records.

(10) Practice forced molting or withdrawal of feed to induce molting.

(d) Organic livestock operations must have comprehensive plans to minimize internal parasite problems in livestock.

The plan will include preventive measures such as pasture management, fecal monitoring, and emergency measures in the event of a parasite outbreak. Parasite control plans shall be approved by the certifying agent.

(e) Euthanasia. (1) Organic livestock operations must have written plans for prompt, humane euthanasia for sick or injured livestock.

(2) The following methods of euthanasia are not permitted: suffocation; blow to the head by blunt instrument; and the use of equipment that crushes the neck, including killing pliers or burdizzo clamps.

(3) Following a euthanasia procedure, livestock must be carefully examined to

Forced molting can promote egg and shell quality, increase egg production, foster long-term bird health, and increase the efficiency of flock management. The discussion portion of the text indicated that withdrawal of feed was necessary to induce molting. However, CFSA pointed out that there are nutritionally sufficient ways to induce molting as well.

CFSA commented that comprehensive plans to minimize internal parasites are already required to obtain organic certification. Therefore, they recommended removing this from the final rule.

CFSA requested that these euthanasia practices be expanded upon before the final rule is published. Instead of listing what forms of euthanasia are prohibited, CFSA requested guidance on what forms of practices are acceptable. CFSA provided the Ohio Livestock Care Standards as an example.

CFSA's concerns about prohibiting forced molting were not addressed nor resolved.

promotion, production, or reproduction, except as provided in § 205.603.

(4) Administer synthetic parasiticides on a routine basis.

(5) Administer synthetic parasiticides to slaughter stock.

(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; or

(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail.

Livestock treated with a prohibited substance must be clearly identified and neither the animal nor its products shall be sold, labeled, or represented as organically produced.

(8) Withhold individual treatment designed to minimize pain and suffering for injured, diseased, or sick animals, which may include forms of euthanasia as recommended by the American Veterinary Medical Association.

(9) Neglect to identify and record treatment of sick and injured animals in animal health records.

(10) Practice forced molting or withdrawal of feed to induce molting.

(d) Organic livestock operations must have comprehensive plans to minimize internal parasite problems in livestock.

ensure that they are dead.

■ 4. Section 205.239 is revised to read as follows:

§ 205.239 Mammalian livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions which accommodate the health and natural behavior of animals, including:

(1) Year-round access for all animals to the outdoors, soil, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with paragraphs (b) and (c) of this section. Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed without competition for food in a manner that maintains all animals in a good body condition. Continuous total confinement of any animal indoors is prohibited. Continuous total

AMS maintained this requirement for a comprehensive parasite reduction plan. They explained in the discussion that portions of this plan are not covered by the organic certification required plan.

CFSA raised concern that section a. is a duplication of the Pasture Rule found at §205.237 and presents a potential for confusion for producers and certifiers.

Euthanasia practices were just slightly expanded. The prohibited methods of euthanasia were slightly expanded, but did not clarify ways acceptable forms of Euthanasia.

The plan will include preventive measures such as pasture management, fecal monitoring, and emergency measures in the event of a parasite outbreak. Parasite control plans shall be approved by the certifying agent.

(e) Euthanasia. (1) Organic livestock operations must have written plans for prompt, humane euthanasia for sick or injured livestock.

(2) The following methods of euthanasia are not permitted: suffocation; manual blow to the head by blunt instrument or manual blunt force trauma; and the use of equipment that crushes the neck, including killing pliers or Burdizzo clamps.

(3) Following a euthanasia procedure, livestock must be carefully examined to ensure that they are dead.

■ 4. Section 205.239 is revised to read as follows:

§ 205.239 Mammalian livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions which accommodate the wellbeing and natural behavior of animals, including:

(1) Year-round access for all animals to the outdoors, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the

confinement of ruminants in yards, feeding pads, and feedlots is prohibited.

(2) For all ruminants, management on pasture and daily grazing throughout the grazing season(s) to meet the requirements of § 205.237, except as provided for in paragraphs (b), (c), and (d) of this section.

(3) Animals must be kept clean during all stages of life with the use of appropriate, clean, dry bedding, as appropriate for the species. When roughages are used as bedding, they must be organically produced and handled in accordance with this part by certified operations except as provided in § 205.236(a)(2)(i).

(4) Shelter designed to allow for:

(i) 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;

(ii) Temperature level, ventilation, and air circulation suitable to the species;

(iii) Reduction of potential for livestock injury; and

(iv) Areas for bedding and resting that are sufficiently large, solidly built, and comfortable so that animals are kept clean, dry, and free of lesions.

(5) The use of yards, feeding pads,

CFSA commented that this requirement for full lateral recumbence was unnecessary because cattle don't lay down on their sides.

species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with paragraphs (b) and (c) of this section. Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed without competition for food.

Continuous total confinement of any animal indoors is prohibited.

Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.

(2) For all ruminants, management on pasture and daily grazing throughout the grazing season(s) to meet the requirements of § 205.237, except as provided for in paragraphs (b), (c), and (d) of this section.

(3) Appropriate clean, dry bedding.

When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(i), and, if applicable, organically handled by operations certified to the NOP.

(4) Shelter designed to allow for:

feedlots and laneways that shall be well drained, kept in good condition (including frequent removal of wastes), and managed to prevent runoff of wastes and contaminated waters to adjoining or nearby surface water and across property boundaries.

(6) Housing, pens, runs, equipment and utensils shall be properly cleaned and disinfected as needed to prevent cross infection and build-up of disease carrying organisms.

(7) Dairy young stock may be housed in individual pens under the following conditions:

(i) Until weaning, providing that they have enough room to turn around, lie down, stretch out when lying down, get up, rest, and groom themselves; individual animal pens shall be designed and located so that each animal can see, smell, and hear other calves.

(ii) Dairy young stock shall be group housed after weaning.

(iii) Dairy young stock over six months of age shall have access to the outdoors at all times including access to pasture during the grazing season, except as allowed under paragraph (c) of this section.

(8) Swine must be housed in a group, except:

(i) Sows may be housed individually

The requirement for “full lateral recumbence” was removed, opting for allowing them to lie down and generally express normal patterns of behavior.

(i) Over a 24-hour period, sufficient space and freedom to lie down, turn around, stand up, fully stretch their limbs, and express normal patterns of behavior;

(ii) Temperature level, ventilation, and air circulation suitable to the species;

(iii) Reduction of potential for livestock injury; and

(iv) If indoor housing is provided, areas for bedding and resting that are sufficiently large, solidly built, and comfortable so that animals are kept clean, dry, and free of lesions.

(5) The use of yards, feeding pads, feedlots and laneways that shall be well drained, kept in good condition (including frequent removal of wastes), and managed to prevent runoff of wastes and contaminated waters to adjoining or nearby surface water and across property boundaries.

(6) Housing, pens, runs, equipment, and utensils shall be properly cleaned and disinfected as needed to prevent cross-infection and build-up of disease carrying organisms.

(7) Dairy young stock may be housed in individual pens until completion of the weaning process but no later than 6 months of age, provided that they have enough room to turn around, lie down, stretch out when lying down, get up,

at farrowing and during the suckling period.

(ii) Boars.

(iii) Swine with documented instance of aggression or recovery from an illness.

(9) Piglets shall not be kept on flat decks or in piglet cages.

(10) Exercise areas for swine, whether indoors or outdoors, must permit rooting, including during temporary confinement events.

(11) In confined housing with stalls, at least one stall must be provided for each animal in the facility at any given time. A cage must not be used as a stall. For group-housed swine, the number of individual feeding stalls may be less than the number of animals as long as all animals are fed routinely over a 24-hour period.

(12) At least 50 percent of outdoor access space must be soil, except when conditions threaten the soil or water quality, outdoor access without soil must be provided temporarily.

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

(1) Inclement weather;

(2) The animal's stage of life.

Lactation is not a stage of life that would exempt ruminants from any of the

CFSA questioned in their comment why producers and certifiers have to worry about 50% of outdoor area being soil when pasture is required through the grazing season due to the Pasture Rule. This also does not consider that dairy animal welfare may be better on solid/concrete pads than on non-vegetated soil.

CFSA requested clarification for what "inclement weather" means for mammals.

AMS addressed CFSA's comment by removing the requirement for 50% soil and providing specifications only for when the outdoor space includes soil versus an established requirement.

rest, and groom themselves; individual animal pens shall be designed and located so that each animal can see, smell, and hear other calves.

(8) Swine must be housed in a group, except:

(i) Sows may be housed individually at farrowing and during the suckling period;

(ii) Boars; and

(iii) Swine with documented instance of aggression or recovery from an illness.

(9) Piglets shall not be kept on flat decks or in piglet cages.

(10) For swine, rooting materials must be provided, except during the farrowing and suckling period.

(11) In confined housing with stalls for mammalian livestock, enough stalls must be present to provide for the natural behaviors of the animals. A cage must not be called a stall. For group-housed swine, the number of individual feeding stalls may be less than the number of animals, as long as all animals are fed routinely over a 24-hour period. For group-housed cattle, bedded packs, compost packs, tie-stalls, freestalls, and stanchion barns are all acceptable housing as part of an overall organic system plan.

(12) Outdoor space must be provided year-round. When the outdoor space

mandates set forth in this part;

- (3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;
- (4) Risk to soil or water quality;
- (5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);
- (6) Sorting or shipping animals and livestock sales, provided that the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;
- (7) Breeding. Animals shall not be confined any longer than necessary to perform the natural or artificial insemination. Animals may not be confined to observe estrus; and
- (8) 4-H, National FFA Organization, and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the animals have arrived home from the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event. Notwithstanding the requirements in paragraph (b)(6) of this section, facilities where 4-H, National FFA Organization, and other youth

A clear definition of “inclement weather” for mammals was not provided.

includes soil, maximal vegetative cover must be maintained as appropriate for the season, climate, geography, species of livestock, and stage of production.

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

- (1) Inclement weather;
- (2) The animal’s stage of life, however, lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this part;
- (3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;
- (4) Risk to soil or water quality;
- (5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);
- (6) Sorting or shipping animals and livestock sales, provided that the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;
- (7) Breeding: Except, that, animals shall not be confined any longer than necessary to perform the natural or artificial insemination. Animals may not be confined to observe estrus; and
- (8) 4-H, National FFA Organization, and other youth projects, for no more

events are held are not required to be certified organic for the participating animals to be sold as organic, provided all other organic management practices are followed.

(c) The producer of an organic livestock operation may, in addition to the times permitted under paragraph (b) of this section, temporarily deny a ruminant animal pasture or outdoor access under the following conditions:

(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;

(2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Except, That, an animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;

(3) In the case of fiber bearing animals, for short periods for shearing; and

(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least

than one week prior to a fair or other demonstration, through the event, and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.

Notwithstanding the requirements in paragraph (b)(6) of this section, facilities where 4-H, National FFA Organization, and other youth events are held are not required to be certified organic for the participating animals to be sold as organic, provided all other organic management practices are followed.

(c) The producer of an organic livestock operation may, in addition to the times permitted under paragraph (b) of this section, temporarily deny a ruminant animal pasture or outdoor access under the following conditions:

(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;

(2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Except, That, an animal shall not be confined or tethered

30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.

(d) Ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location. Yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed without crowding and without competition for food. The finishing period shall not exceed one-fifth ($1/5$) of the animal's total life or 120 days, whichever is shorter.

(e) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that

in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;

(3) In the case of fiber bearing animals, for short periods for shearing; and

(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.

(d) Ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location. Yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feed lot to feed without crowding and without competition for food. The finishing period shall not

does not put soil or water quality at risk.

■ 5. Section 205.241 is added to read as follows:

§ 205.241 Avian living conditions.

(a) General requirement. An organic poultry operation must establish and maintain year-round poultry living conditions which accommodate the health and natural behavior of poultry, including: Year-round access to outdoors; shade; shelter; exercise areas; fresh air; direct sunlight; clean water for drinking; materials for dust bathing; adequate outdoor space to escape from predators and aggressive behaviors suitable to the species, its stage of life, the climate and environment. Poultry may be temporarily denied access to the outdoors in accordance with paragraph (d) of this section.

(b) Indoor space requirements. (1) All birds must be able to move freely, and engage in natural behaviors.

(2) Ventilation must be adequate to prevent build-up of ammonia. Ammonia levels must not exceed 25 parts per million. Operations must monitor ammonia levels monthly. When ammonia levels exceed 10 parts per million, operations must implement additional practices to reduce ammonia levels below 10 parts per million.

(3) For layers and mature birds, artificial light may be used to prolong

exceed one-fifth (1/5) of the animal's total life or 120 days, whichever is shorter.

(e) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that does not put soil or water quality at risk.

■ 5. Section 205.241 is added to read as follows:

§ 205.241 Avian living conditions.

(a) The producer of an organic poultry operation must establish and maintain year-round poultry living conditions that accommodate the health and natural behavior of poultry, including: Year-round access to outdoors; shade; shelter; exercise areas; fresh air; direct sunlight; clean water for drinking; materials for dust bathing; and adequate outdoor space to escape aggressive behaviors suitable to the species, its stage of life, the climate, and environment. Poultry may be temporarily denied access to the outdoors in accordance with paragraph (d) of this section.

(b) Indoor space requirements—

(1) Poultry housing must be

the day length up to 16 hours. Artificial light intensity must be lowered gradually to encourage hens to move to perches or settle for the night. Natural light must be sufficient indoors on sunny days so that an inspector can read and write when all lights are turned off.

(4) The following types of flooring may be used in shelter for avian species:

(i) Mesh or slatted flooring under drinking areas to provide drainage.

(ii) Houses, excluding pasture housing, with slatted/mesh floors must have 30 percent minimum of solid floor area available with sufficient litter available for dust baths so that birds may freely dust bathe without crowding.

(iii) Litter must be provided and maintained in a dry condition.

(5) Poultry houses must have sufficient exit areas, appropriately distributed around the building, to ensure that all birds have ready access to the outdoors.

(6) Flat roosts areas must allow birds to grip with their feet. Six inches of perch space must be provided per bird. Perch space may include the alighting rail in front of the nest boxes. All birds must be able to perch at the same time except for multi-tiered facilities, in which 55 percent of birds must be able to perch at the same time. Facilities for species which do not perch do not need

CFSa questioned the requirement that natural light must be strong enough for an inspector to read and write. Not only is this completely subjective, it seems unnecessary given that the proposed rule allows artificial light to be used in poultry houses.

The requirement for monitoring ammonia was not changed to compensate for the lack of affordable ammonia monitoring measures. The rules were written based on the expectation that monitoring costs are low, therefore at least monthly monitoring was required.

AMS did not remove the subjective portion of this rule that determines adequate lighting based on the certifier's ability to read and write in the light.

The requirement for exit areas was adjusted to be more feasible and up to the certifying agent to determine.

sufficiently spacious to allow all birds to move freely, stretch their wings, stand normally, and engage in natural behaviors.

(2) Producers must monitor ammonia levels at least monthly and implement practices to maintain ammonia levels below 10 ppm. When ammonia levels exceed 10 ppm, producers must implement additional practices and additional monitoring to reduce ammonia levels below 10 ppm. Ammonia levels must not exceed 25 ppm.

(3) For layers and fully feathered birds, artificial light may be used to prolong the day length, to provide up to 16 hours of continuous light. Artificial light intensity must be lowered gradually to encourage hens to move to perches or settle for the night. Natural light must be sufficient indoors on sunny days so that an inspector can read and write when all lights are turned off.

(4) Exit areas—poultry houses must have sufficient exit areas that are appropriately distributed to ensure that all birds have ready access to the outdoors.

(5) Perches—for layers (*Gallus gallus*), six inches of perch space must be provided per bird. Perch space may include the alighting rail in front of the nest boxes. All layers must be able to

to have perch or roost space.

(7) For layers, no more than 2.25 pounds of hen per square foot of indoor space is allowed at any time, except:

(i) Pasture housing. No more than 4.5 pounds of hen per square foot of indoor space.

(ii) Aviary housing. No more than 4.5 pounds of hen per square foot of indoor space.

(iii) Slatted/mesh floor housing. No more than 3.75 pounds of hen per square foot of indoor space.

(iv) Floor litter housing. No more than 3.0 pounds of hen per square foot of indoor space.

(8) For pullets, no more than 3.0 pounds of pullet per square foot of indoor space is allowed at any time.

(9) For turkeys, broilers and other meat type species, no more than 5.0 pounds of birds per square foot of indoor space is allowed at any time.

(10) All birds must have access to scratch areas in the house.

(11) Poultry housing must be sufficiently spacious to allow all birds to move freely, stand normally, stretch their wings and engage in natural behaviors.

(c) Outdoor space requirements. (1) Outside access and door spacing must be designed to promote and encourage outside access for all birds on a daily

CFSA commented that measuring stocking density in pounds will be very difficult/impracticable. CFSA also provided recommendations for the stocking density of pastured broiler housing, which they had suggested as a subcategory of indoor housing earlier in the rule. In this case, the definition was adopted as pasture pens and simply considered outdoor space.

perch at the same time except for aviary housing, in which 55 percent of layers must be able to perch at the same time.

(6) All birds must have access to areas in the house that allow for scratching and dust bathing. Litter must be provided and maintained in a dry condition.

(7) Houses with slatted/mesh floors must have 30 percent minimum of solid floor area available with sufficient litter available for dust baths so that birds may freely dust bathe without crowding.

(8) For layers (*Gallus gallus*), indoor stocking density must not exceed (live bird weight):

(i) Mobile housing: 4.5 pounds per square foot.

(ii) Aviary housing: 4.5 pounds per square foot.

(iii) Slatted/mesh floor housing: 3.75 pounds per square foot.

(iv) Floor litter housing: 3.0 pounds per square foot.

(v) Other housing: 2.25 pounds per square foot.

(9) For pullets (*Gallus gallus*), indoor stocking density must not exceed 3.0 pounds of bird per square foot.

(10) For broilers (*Gallus gallus*), indoor stocking density must not exceed 5.0 pounds of bird per square foot.

(11) Indoor space includes flat areas available to birds, excluding nest boxes.

basis. Producers must provide access to the outdoors at an early age to encourage (train) birds to go outdoors. Outdoor areas must have suitable enrichment to entice birds to go outside. Birds may be temporarily denied access to the outdoors in accordance with paragraph (d) of this section.

(2) Exit areas must be designed so that more than one bird can exit at a time and all birds in the house can exit within one hour.

(3) For layers, no more than 2.25 pounds of bird per square foot of outdoor space is allowed at any time.

(4) For pullets, no more than 3.0 pounds of pullet per square foot of outdoor space is allowed at any time.

(5) For turkeys, broilers and other meat type species, no more than 5.0 pounds of bird per square foot of outdoor space is allowed at any time.

(6) Space that has a solid roof overhead and is attached to the structure providing indoor space is not outdoor access and must not be included in the calculation of outdoor space.

(7) Shade may be provided by structures, trees, or other objects in the environment.

(8) At least 50 percent of outdoor access space must be soil, except when conditions threaten the soil or water

CFSA commented that this requirement for a whole house-full of birds to go outside in one hour is unnecessary because all the birds will not go out at once. It would also be difficult to enforce.

CFSA generally asked AMS to revise the proposed stocking density requirements to ensure that they are not stifling innovation in the development of high-welfare, efficient organic production systems, given the economic challenges small and mid-scale producers face to succeed.

(12) Indoor space may include enclosed porches and lean-to type structures (e.g. screened in, roofed) as long as the birds always have access to the space, including during temporary confinement events. If birds do not have continuous access to the porch during temporary confinement events, this space must not be considered indoors.

(c) Outdoor space requirements—

(1) Access to outdoor space and door spacing must be designed to promote and encourage outside access for all birds on a daily basis. Producers must provide access to the outdoors at an early age to encourage (i.e., train) birds to go outdoors. Birds may be temporarily denied access to the outdoors in accordance with § 205.241(d).

(2) At least 50 percent of outdoor space must be soil. Outdoor space with soil must include maximal vegetative cover appropriate for the season, climate, geography, species of livestock, and stage of production. Vegetative cover must be maintained in a manner that does not provide harborage for rodents and other pests.

(3) Shade may be provided by structures, trees, or other objects in the outdoor area.

(4) For layers (*Gallus gallus*), outdoor space must be provided at a rate of no

quality, outdoor access without soil must be provided temporarily.

(d) The producer of an organic poultry operation may temporarily confine birds. Each instance of confinement must be recorded. Operations may confine birds because of:

- (1) Inclement weather, including when air temperatures are under 40 degrees F or above 90 degrees F.
- (2) The animal's stage of life, including the first 4 weeks of life for broilers and other meat type birds and the first 16 weeks of life for pullets.
- (3) Conditions under which the health, safety, or well-being of the animal could be jeopardized, however the potential for disease outbreak is not sufficient cause. A documented occurrence of a disease in the region or relevant migratory pathway must be present in order to confine birds.
- (4) Risk to soil or water quality.
- (5) Preventive healthcare procedures or for the treatment of illness or injury (neither various life stages nor egg laying is an illness or injury).
- (6) Sorting or shipping birds and poultry sales. Provided the birds are maintained under continuous organic management throughout the extent of their allowed confinement.
- (7) Nest box training. Birds shall not be confined any longer than two weeks

CFSA appreciated the temperature indications in this definition of "inclement weather", but still found that it was generally vague.

Instead of identifying who determines when a disease outbreak occurs, the requirement for documented occurrence of disease in a region was removed.

CFSA requested that AMS clarify who determines if a disease outbreak is occurring in a region or migratory bird flyway such that birds may be confined indoors.

The rule was not expanded to better define inclement weather outside of the parameters of temperature.

less than one square foot for every 2.25 pounds of bird in the flock.

(5) For pullets (*Gallus gallus*), outdoor space must be provided at a rate of no less than one square foot for every 3.0 pounds of bird in the flock.

(6) For broilers (*Gallus gallus*), outdoor space must be provided at a rate of no less than one square foot for every 5.0 pounds of bird in the flock.

(7) Outdoor space may include porches and lean-to type structures that are not enclosed (e.g. with roof, but with screens removed) and allow birds to freely access other outdoor space.

(d) The producer of an organic poultry operation may temporarily confine birds. Confinement must be recorded. Operations may temporarily confine birds when one of the following circumstances exists:

- (1) Inclement weather, including when air temperatures are under 40 degrees F or above 90 degrees F.
- (2) The animal's stage of life, including:
 - (i) The first 4 weeks of life for broilers (*Gallus gallus*);
 - (ii) The first 16 weeks of life for pullets (*Gallus gallus*); and
 - (iii) Until fully feathered for bird species other than *Gallus gallus*.
- (3) Conditions under which the health, safety, or well-being of the

to teach the proper behavior.

(8) 4–H, National FFA Organization, and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the birds have arrived home at the conclusion of the event. These birds must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.

Notwithstanding the requirements in paragraph (d)(6) of this section, facilities where 4–H, National FFA Organization, and other youth events are held are not required to be certified organic for the participating birds to be sold as organic, provided all other organic management practices are followed.

(e) The producer of an organic poultry operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage outdoor access in a manner that does not put soil or water quality at risk.

■ 6. Section 205.242 is added to read as follows:

§ 205.242 Transport and slaughter.

(a) Transport. (1) Certified organic livestock must be clearly identified as

animal could be jeopardized.

(4) Risk to soil or water quality, including to establish vegetation by reseeding the outdoor space.

(5) Preventive healthcare procedures or for the treatment of illness or injury (neither various life stages nor egg laying is an illness or injury).

(6) Sorting or shipping birds and poultry sales, provided that the birds are maintained under continuous organic management, throughout the extent of their allowed confinement.

(7) For nest box training, provided that birds shall not be confined any longer than required to establish the proper behavior. Confinement must not exceed five weeks.

(8) For 4–H, National FFA Organization, and other youth projects, provided that temporary confinement for no more than one week prior to a fair or other demonstration, through the event, and up to 24 hours after the birds have arrived home at the conclusion of the event. During temporary confinement, birds must be under continuous organic management, including organic feed, for the duration of confinement. Notwithstanding the requirements in paragraph (d)(6) of this section, facilities where 4–H, National FFA Organization, and other youth events are held are not required to be

organic, transported in pens within the livestock trailer clearly labeled for organic use and be contained in those pens for the duration of the trip.

(2) All livestock must be fit for transport to auction or slaughter facilities.

(i) Calves must have a dry navel cord and be able to stand and walk without human assistance.

(ii) Sick, injured, weak, disabled, blind, and lame animals must not be transported for sale or slaughter. Such animals may be medically treated or euthanized.

(3) Adequate and season-appropriate ventilation is required for all livestock trailers, shipping containers and any other mode of transportation used to protect animals against cold and heat stresses.

(4) Bedding must be provided on trailer floors and in holding pens as needed to keep livestock clean, dry, and comfortable during transportation and prior to slaughter. Poultry crates are exempt from the bedding requirement. When roughages are used for bedding, they must have been organically produced and handled by a certified organic operation(s).

(5) Arrangements for water and organic feed must be made if transport time exceeds twelve hours.

certified organic for the participating birds to be sold as organic, provided all other organic practices are followed.

(e) The producer of an organic poultry operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms. The producer must also optimize recycling of nutrients and must manage outdoor access in a manner that does not put soil or water quality at risk.

■ 6. Section 205.242 is added to read as follows:

§ 205.242 Transport and slaughter.

(a) Transportation. (1) Certified organic livestock must be clearly identified as organic, and this identity must be traceable for the duration of transport.

(2) All livestock must be fit for transport to buyers, auction or slaughter facilities.

(i) Calves must have a dry navel cord and be able to stand and walk without human assistance.

(ii) Non-ambulatory animals must not be transported for sale or slaughter. Such animals may be medically treated or euthanized.

(3) Adequate and season-appropriate ventilation is required for all livestock

(i) Organic livestock operations must transport livestock in compliance with the Federal Twenty-Eight Hour Law (49

(ii) The producer or handler of an organic livestock operation must provide all non-compliant records and subsequent corrective action related to livestock transport during the annual inspection.

(6) Organic operations must have in place emergency plans to address possible animal welfare problems that might occur during transport.

(b) Mammalian slaughter. (1) Organic operations that slaughter organic livestock must be in compliance with the Federal Meat Inspection Act (21 U.S.C. 603(b) and 21 U.S.C. 610(b) and the regulations at 9 CFR part 313) regarding humane handling and slaughter of livestock.

(2) Organic operations that slaughter organic exotic animals must be in compliance with the Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.) and the regulations at 9 CFR parts 313 and 352 regarding the humane handling and slaughter of exotic animals.

(3) Organic operations that slaughter organic livestock must provide all noncompliant records related to humane handling and slaughter issued by the controlling national, federal or state

trailers, shipping containers, and any other mode of transportation used to protect animals against cold and heat stresses.

(4) Bedding must be provided on trailer floors and in holding pens as needed to keep livestock clean, dry, and comfortable during transport and prior to slaughter. Bedding is not required in poultry crates. When roughages are used for bedding, they must be certified organic.

(5) Arrangements for water and organic feed must be made if transport time, including all time on the mode of transportation, exceeds 12 hours.

(i) The producer or handler of an organic livestock operation, who is responsible for overseeing the transport of organic livestock, must provide records to certifying agents during inspections or upon request that demonstrate that transport times for organic livestock are not detrimental to the welfare of the animals and meet the requirements of paragraph (a)(5) of this section.

(6) Organic producers and handlers, who are responsible for overseeing the transport of organic livestock, must have emergency plans in place that adequately address possible animal welfare problems that might occur during transport.

authority and all records of subsequent corrective actions during the annual organic inspection.

(c) Avian slaughter. (1) Organic operations that slaughter organic poultry must be in compliance with the Poultry Products Inspection Act requirements (21 U.S.C. 453(g)(5) and the regulations at 9 CFR 381.1(b)(v), 381.90, and 381.65(b)).

(2) Organic operations that slaughter organic poultry must provide all noncompliant records related to the use of good manufacturing practices in connection with slaughter issued by the controlling national, federal or state authority and all records of subsequent corrective actions during the annual organic inspection.

(3) Organic operations that slaughter organic poultry, but are exempt from or not covered by the requirements of the Poultry Products Inspection Act, must ensure that:

- (i) No lame birds may be shackled, hung or carried by their legs;
- (ii) All birds shackled on a chain or automated system must be stunned prior to exsanguination; and
- (iii) All birds must be irreversibly insensible prior to being placed in the scalding tank.

Dated: April 4, 2016.

Elanor Starmer,

CFSA requested clarification on whether certifying agents were required to become experts in FSIS rules. Learning and enforcing these rules can cause an undue/unreasonable burden for certifiers and producers, especially for on-farm poultry processing.

CFSA applauded the proposed rule for its recognition of farmers processing poultry under exemption, which some states are not recognizing. CFSA requested that AMS conduct outreach to the states where this is the case.

The rule was changed to say that FSIS will determine whether producers are handlers are in compliance instead of the certifying agents. AMS added in the discussion portion of the text that they would conduct annual training and provide updates to the certifying agent of changes to keep them aware of the regulations.

(b) Mammalian slaughter. (1)

Producers and handlers who slaughter organic livestock must be in compliance, as determined by FSIS, with the Federal Meat Inspection Act (21 U.S.C. 603(b) and 21 U.S.C. 610(b)), the regulations at 9 CFR part 313 regarding humane handling and slaughter of livestock, and the regulations of 9 CFR part 309 regarding ante-mortem inspection.

(2) Producers and handlers who slaughter organic exotic animals must be in compliance with the Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.), the regulations at 9 CFR parts 313 and 352 regarding the humane handling and slaughter of exotic animals, and the regulations of 9 CFR part 309 regarding ante-mortem inspection.

(3) Producers and handlers who slaughter organic livestock or exotic animals must provide all noncompliance records related to humane handling and slaughter issued by the controlling national, federal, or state authority and all records of subsequent corrective actions to certifying agents during inspections or upon request.

(c) Avian slaughter. (1) Producers and handlers who slaughter organic poultry must be in compliance, as determined by FSIS, with the Poultry Products

Administrator, Agricultural Marketing
Service.

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Inspection Act requirements (21 U.S.C. 453(g)(5)); the regulations at paragraph (v) of the definition of “Adulterated” in 9 CFR 381.1(b), and 9 CFR 381.90, and 381.65(b)); and FSIS Directives 6100.3 and 6910.1.

(2) Producers and handlers who slaughter organic poultry must provide all noncompliance records related to the use of good manufacturing practices in connection with slaughter issued by the controlling national, federal, or state authority and all records of subsequent corrective actions to the certifying agent at inspection or upon request.

(3) Producers and handlers who slaughter organic poultry, but are exempt from or not covered by the requirements of the Poultry Products Inspection Act, must ensure that:

(i) No lame birds may be shackled, hung, or carried by their legs;

(ii) All birds shackled on a chain or automated system must be stunned prior to exsanguination, with the exception of ritual slaughter; and
(iii) All birds must be irreversibly insensible prior to being placed in the scalding tank.

Dated: January 11, 2017.

Elanor Starmer,
Administrator, Agricultural Marketing
Service.