



## MEMORANDUM

April 25, 2016

**TO:** General Member Representatives, Regulatory Affairs Committee, Food Safety and Inspection Service, Scientific Affairs Committee, and Animal Welfare Committee

**FROM:** Mark Dopp

**RE:** National Organic Program; Organic Livestock and Poultry Practices; Proposed Rule; 81 *Fed. Reg.* 21956 (April 13, 2016)

On April 13, the Agricultural Marketing Service (AMS or the agency) published in the *Federal Register* a proposed rule (proposal) to amend certain regulations in the National Organic Program (NOP) that affect how livestock and poultry are treated and handled for producers and processors participating in NOP.<sup>1</sup> The proposal, if finalized, would change the organic livestock and poultry production requirements by adding new provisions for livestock handling and transport for slaughter and avian living conditions and expanding and clarifying existing requirements covering livestock health care practices and mammalian living conditions.

### Proposed Rule

The proposal would add several new definitions to the regulations – definitions necessary to enable to agency to promulgate changes to other regulations. The proposal would add definitions for “Beak trimming,” “Caponization,” “Cattle wattling,” “Debeaking,” “De-snooding,” “Dubbing,” “Indoors,” “Mulesing,” “Outdoors,” “Perch,” “Pullet,” “Roost,” “Soil,” “Stocking density,” and “Toe clipping.”<sup>2</sup>

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<sup>1</sup> <https://www.gpo.gov/fdsys/pkg/FR-2016-04-13/pdf/2016-08023.pdf>

<sup>2</sup> Proposed 7 CFR Section 205.2.

The proposal includes some substantial rewrites of several sections in the NOP regulations. Section 205.238, Livestock Health Care Standard, would be amended concerning feed rations and physical alterations and would limit some practices (needle teeth trimming [no more than top 1/3rd of the tooth in pigs] and tail docking in pigs) and preclude others (debeaking, 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.)<sup>3</sup> That section also would, among other things, impose new restrictions on ammonia levels in poultry houses and require organic livestock producers to have written plans for prompt, humane euthanasia for sick or injured livestock standards, while prohibiting certain types of euthanasia (blow to the head by blunt instrument; and the use of equipment that crushes the neck, including killing pliers or burdizzo clamps.)

The proposal would rename Section 205.239, Livestock Living Conditions, to Mammalian Livestock Living Conditions. That section would be amended to provide that “[A]nimals must be kept clean during all stages of life with the use of appropriate, clean, dry bedding, as appropriate for the species” and have “[S]ufficient 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.”<sup>4</sup> The proposal also would include a series of new livestock housing requirements for young dairy stock and swine.<sup>5</sup>

The proposal would create a new section, 205.241, entitled “Avian Living Conditions.” That section would include existing provisions from the current living conditions requirements and new requirements recommended by the NOSB. Proposed section 205.241(a) would “require organic poultry producers to provide their birds with year-round access to the outdoors, soil, shade, shelter, exercise areas, fresh air, direct sunlight, clean water for drinking, materials for dust bathing, and adequate space to escape both predators and aggressive behaviors, in a manner that is suitable to the species, the stage of life, and the environment.”<sup>6</sup> The proposal also would require enough indoor space to allow all birds “to move freely and engage in natural behaviors” and would prohibit using cages or environments “that limit free movement within the indoor space.”<sup>7</sup>

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<sup>3</sup> 81 *Fed. Reg.* at 21962.

<sup>4</sup> Proposed 205.239(a)(3)-(4). 81 *Fed. Reg.* 21966.

<sup>5</sup> Proposed 205.239(a)(7)-(12).

<sup>6</sup> 81 *Fed. Reg.* at 21971.

<sup>7</sup> *Id.*

Finally, the proposal includes transportation and slaughter provisions. This new section, section 205.242, includes proposed minimum fitness requirements for livestock to be transported and minimum standards for the trailer, truck, or shipping container used for transporting organic livestock.<sup>8</sup> The preamble provides that the “seasonal appropriate ventilation” would be necessary to protect against cold or heat stress, which includes that air flow be adjusted depending upon the season and temperature.<sup>9</sup> Bedding would be required as needed to keep livestock clean, dry, and comfortable and if roughage is used as bedding, it would need to be organically produced and handled because using non-organic bedding would cause a loss of organic status for the animals transported.

Specifically, section 205.242(a)(2)(i) would require that calves have a dry navel cord, and be able to stand and walk without assistance, if they are to be transported. This new section would apply only to transport to auction facilities or slaughter facilities. The proposal also would require that livestock be provided organic feed and clean water if transport time exceeds 12 hours and that 12 hour period includes all times in which the animals are on the trailer/truck/shipping container but not moving.<sup>10</sup>

The proposal also includes a requirement that “[O]rganic operations that slaughter organic livestock must provide all noncompliant records related to humane handling and slaughter issued by the controlling national, federal or state authority and all records of subsequent corrective actions during the annual organic inspection.”<sup>11</sup>

### **Implications of the Proposal**

AMS contends it proposed the rule “to maintain consumer confidence in the high standards represented by the USDA organic seal” and that it is “necessary to augment the USDA organic livestock production regulations with robust and clear provisions to fulfill a purpose of the OFPA, to assure consumers that organically-produced products meet a consistent and uniform standard (7 U.S.C. 6501).”<sup>12</sup> The agency cites as a benefit the “specificity and clarity” the proposal will bring to regulations relating to animal welfare practices for organic livestock and poultry and that it address the “persistent requests” for additional living condition standards for organic livestock and poultry.<sup>13</sup>

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<sup>8</sup> 81 *Fed. Reg.* at 21974-75.

<sup>9</sup> 81 *Fed. Reg.* at 21975

<sup>10</sup> Proposed 205.242(a)(5); 81 *Fed. Reg.* 22008.

<sup>11</sup> Proposed 205.242(b)(3); 81 *Fed. Reg.* 22009

<sup>12</sup> *Id.* at 21980.

<sup>13</sup> *Id.* at 21987.

Unknown is whether, and if so how, animal activist groups will call for any of these proposed concepts to be incorporated into or required in more conventional livestock and poultry production.

The comment period is 60 days and comments are due by June 13, 2016.

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If you have questions about this memorandum or the proposal, please contact me at [mdopp@meatinstitute.org](mailto:mdopp@meatinstitute.org) or 202-587-4229.

Cc: Barry Carpenter  
Janet Riley  
Scott Goltry  
Ken Mastracchio  
Andrea Perkins  
Norm Robertson