



October 21, 2022

Erin Healy, MPH., Director, Standards Division
National Organic Program
USDA-AMS-NOP
Room 2646-So., Ag Stop 0268
1400 Independence Ave. SW
Washington, DC 20250-0268

Re: Organic Livestock and Poultry Standards Proposed Rule

Docket: AMS-NOP-21-0073

Submitted electronically

Dear Ms. Healy,

I am writing to urge the USDA National Organic Program to swiftly finalize the Organic Livestock and Poultry Standards (OLPS) rule. The Northeast Organic Farming Association of New York (NOFA-NY) supports the proposed rule because it will strengthen organic animal welfare standards, create greater consistency, better meet consumer expectations, and address market failures.

Founded in 1983, the Northeast Organic Farming Association of New York (NOFA-NY) is the premier organization growing a strong organic agriculture movement in New York State and is part of a regional network of seven Northeast Organic Farming Associations. NOFA-NY provides education and assistance to local organic farmers; connects consumers with organic farmers; advocates policies that support a sustainable and fair food and farm system at both the state and federal levels; and is the largest USDA-accredited organic certifier in New York. NOFA-NY certifies 1096 organic farms and businesses including 452 livestock and poultry operations. New York State is a top US producer of organic products ranking third in number of organic farms nationwide, with over 1900 organic certified entities statewide.



USDA can improve a few areas to better meet the current intent of the rule with more specific language. We have learned over time that some issues are prone to various interpretations, which leads to regulatory inconsistencies and loopholes. Successful implementation is achieved through clear and specific language and ultimately allows for easier enforcement of a final rule.

The lack of animal welfare-based standards within the organic regulations has led to consumer confusion, and a market failure where currently the organic label does not meet consumer expectations. The vast majority of existing organic livestock operations have already made significant monetary investments and improved their management systems to meet the provisions in the proposed rule. Only a few operations would need to change their systems or leave organic certification once this rule is implemented. This inconsistency between many operations and a few operations has resulted in a great deal of economic harm for many organic livestock producers and resulted in lack of trust in the organic seal at the retail level.

To provide operators, certifiers, and consumers with a strong, unambiguous rule, NOFA-NY supports the following improvements:

1. [A three-year implementation period for outdoor access requirements for existing poultry operations.](#)
2. [Clarifying the meaning of “maximal vegetation” and providing clear requirements for how poultry will access this vegetated area. And adding clarity to the definition of soil.](#)
3. [Ensuring sufficient exit doors and that access to the vegetated areas are achievable with close proximity to those exit doors.](#)
4. [Testing and monitoring ammonia weekly at the height of the animal.](#)
5. [Clarifying that animals should never be kept in constant darkness or less than full spectrum lighting.](#)
6. [Lowering the temperature range for temporary confinement of poultry from 40 degrees to 32 degrees F.](#)

3 Year Implementation Timeline

NOFA-NY supports a three-year implementation period for outdoor access requirements for existing poultry operations, and immediate implementation of outdoor access requirements for poultry operations that become certified after implementation of the regulation.



The proposed rule asks if the public supports a 5-year or 15-year implementation timeframe for laying hen outdoor access. NOFA-NY rejects both timeframes and instead urges a three-year timeframe for a variety of reasons. It is in line with the three-year timeframe for indoor space requirements for broilers in this proposed rule, the need to correct the market failure of inconsistent interpretation is urgent, and three years is the typical transition timeframe for all operations to make capital and management investments in order to become certified organic. Three years is sufficient time for existing operations to provide the outdoor access required in the regulation, without causing undue hardship, and more speedily levels the playing field with consistent costs between all organic operations and provides consumers with a meaningful organic label.

We echo the comments submitted by the National Organic Coalition of which NOFA-NY is a member:

“The option of a 15-year implementation period for avian outdoor access is entirely unacceptable to NOC, and we cannot support this rule if this is the timeframe chosen by the National Organic Program. This excessive wait for implementation takes into consideration the needs of a small sector of producers, while ignoring the vast majority of producers, consumers, retailers, marketers, and other stakeholders who have suffered economically for too long while waiting for animal welfare to be incorporated into the National Organic Program standards. The organic label must have consistent meaning in the marketplace based upon equivalent production activities and infrastructure required of all operations.”

Definitions

NOFA-NY recommends clarifying the meaning of “maximal vegetation” and providing clear requirements for how poultry will access this vegetated area.

NOFA-NY recommends the following definition be added to the OLPS rule:

Maximal vegetation- Vegetation at the height and density that provides quality foraging opportunities and is managed to prevent damage to the extent that it cannot regenerate. Use of rotation, reseeding, renovation, mowing, and irrigation can be part of the organic system plan to install and maintain this vegetation.



Since the proposed regulation as written states that maximal vegetation is provided to be “appropriate to the climate, geography, species of livestock and stage of production”, NOFA-NY is concerned that this can be used as a loophole to have sparse, nonmeaningful, forage area. The management tools listed in this proposed definition are currently in use by many organic operations and provide many methods to supply poultry with vegetated areas on living soil. Maximal vegetation should mean that birds can find insects and live plant matter to consume, which then entices the birds to obtain healthy exercise outdoors in the sunlight.

NOFA-NY also strongly supports maintaining and clarifying the definition of soil as follows:

Soil: The outermost layer of the earth comprised of minerals, water, air, organic matter, fungi and bacteria in which plants may grow roots. ***Gravel, concrete, or other surfaces that do not typically grow plants cannot be included in the percentage of land in outdoor access areas that must be comprised of soil.***

Exit areas and outdoor space requirements

Access to the vegetated areas must be achievable with sufficient exit doors and in close proximity to those exit doors.

The proposed regulation has vague language which states at 205.241(b)(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”

This language is not specific enough to ensure that operations provide sufficient exit doors.

NOFA-NY recommends this addition to the regulation:

Exit areas for birds to have access to the outdoors must be designed so that more than one bird at a time can pass through the opening and to have a combined length of at least 12 feet per 1,000 square foot area of the house available to the birds.

This further clarification brings the organic regulation in line with various humane certifications, and clearly states what is required. This clarification is necessary to have consistent enforcement of the rule, providing for equal investments between operations, and meaningful access to outdoors no matter what size or shape of the poultry housing. It is well known that poultry will not use access doors if the birds are in the middle of a large building, unless there are sufficient exit areas in relation to the square footage of the building.



The proposed rule at §205.241 (c)(2) states:

“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.”

Since the minimum requirement allows for 50% of the outdoor access area to be gravel, concrete, or another non-vegetated surface, it is imperative that the vegetated area be close enough to the building so the birds will truly have access to it. Non-vegetated areas should be limited to areas where soil erosion would be a concern, as well as areas close to the building where a gravel or concrete surface provides for better pest management.

NOFA-NY supports the following addition to §205.241(c)(2):

The vegetated and soil areas cannot be more than 30 feet from the outdoor access doors of the housing area. Gravel, concrete, or other non-vegetative material in the outdoor access area must be limited to areas of high soil erosion, high usage, or pest management only.

Ammonia monitoring

Ammonia monitoring should be performed more often and testing should be done at the height of the animal.

The proposed regulation §205.241 (b) (2) states:

“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.”

Monitoring ammonia levels only twelve times per year is not sufficient to protect the health and welfare of the animals. Monitoring should be required on a weekly basis. This will provide the operator with a much better assessment if ammonia buildup is becoming a problem in their livestock housing and aid them in remedying the situation in a more timely manner than monthly monitoring can provide. In addition, to be more practical and in line with humane certifications, the rule should require that the monitoring be done at the height of the animal, to truly assess the effect the ammonia levels might be having on the livestock.



NOFA-NY recommends the following changes in bold to §205.241 (b) (2):

Producers must monitor ammonia levels at least **weekly** 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. **Ammonia monitoring must be done at the height of the animal.**

Artificial light

Animals should never be kept in constant darkness or less than full spectrum lighting.

The proposed rule at §205.241 (b) (3) states:

“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.”

There is no other reference to the requirement for light, nor the type of light. Nonorganic meat animals can be raised indoors with little to no light, or could be subject to less than full spectrum lighting as a way to encourage more feeding and faster weight gain. Most humane certifications require at least one foot-candle of light throughout the building. While many would prefer a requirement for natural light as found in the European organic regulations, artificial light would be acceptable as long as it is of high enough intensity and full spectrum.

NOFA-NY recommends the following be added:

Lighting , other than at the end of the day, must not be manipulated through darkness, low intensity or less than full spectrum for any reason, such as to encourage weight gain.

Temporary confinement

Temperature range for temporary confinement of poultry should be lowered from 40 degrees to 32 degrees F.

The proposed rule at §205.241 (d) (1) states:

“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.”



Many poultry producers allow their birds access to the outdoors year-round, even in cold climates, allowing the birds to choose whether they want to go outside or not. These operations do not have significant loss of production nor harm to the health of their animals. 40 degrees is too high a minimum temperature and could result in many operations in colder climates keeping their birds inside for more than six months of the year. The rule already requires organic animals be temporarily confined to prevent harm, so if it is snowing and 33 degrees, the operation could still confine the birds if needed to protect the health of the animals. ***NOFA-NY recommends the lower temperature to allow for temporary confinement be changed from 40 degrees to 32 degrees.***

Outdoor access is fundamental to the organic regulations, and it is what consumers expect. Consumers place trust in the organic label to deliver on the values that are important to them, and they are willing to pay a premium for expected animal welfare standards. Not meeting expectations in this area of the standard puts consumer trust in the USDA seal at stake and it will have long-term detrimental effects on the entire organic sector.

Our top priority is that USDA moves expeditiously to a final rule and ensures that the final rule is meaningful and effectively closes loopholes. We urge USDA to complete its rulemaking process and issue a final rule as soon as possible.

Thank you for consideration of NOFA-NY's comments.

Sincerely,

Bethany Wallis
Executive Director
Northeast Organic Farming Association of New York (NOFA-NY)