



CORNUCOPIA
I N S T I T U T E

National Organic Standards Board
c/o Lorraine Coke
1400 Independence Ave., SW.,
Room 2646- So., Ag Stop 0268,
Washington, DC 20250-0268

Re: AMS-NOP-11-0081

November 13, 2011

Dear members of the National Organic Standards Board,

The Cornucopia Institute is a non-profit farm policy research organization, representing more than 4,000 members, with organic farmers as our primary constituency.

Thank you for your efforts in developing strong and meaningful animal welfare benchmarks, which are desperately needed in the federal organic regulations.

We are disappointed to see that important standards have been taken out of the recommendation for regulatory language, and have either been left out entirely or have been put into guidance. The National Organic Program has advised the community repeatedly that guidance does not carry the full weight of law and is not enforceable.

Please accept our comments below, and please note that we continue to question whether organic producers – rank-and-file farmers – have had adequate opportunity to share their input. We want to clearly go on the record that the official public comment period was too short (26 days) making it difficult for organizations like Cornucopia to communicate with certified organic livestock producers. At Cornucopia, many of our members have no access to the internet (many belong to Amish communities) making it nearly impossible for us to communicate with them in time to submit meaningful comments to the board.

That being said, we cannot allow the organic label to signify a weaker animal welfare standard than competing labels, which are gaining traction in the marketplace. The organic label should endeavor to be the *gold standard*, and the federal regulations should reflect this.

Animal welfare needs to be addressed in the rule, not guidance

Consumers trust the organic label because it is meaningful and verifiable. Unlike industry-defined marketing claims, like the “natural” label, and animal welfare labels, the organic seal is backed by rigorous federal standards and requirements.

Imagine the consumer confusion, and potential harm to the reputation of the organic label, if humane livestock treatment in organics becomes mere “guidance” – nothing more than suggestions and recommendations – rather than the strong and verifiable requirements that consumers expect from the organic label.

The organic rule needs quantitative standards

We do not oppose qualitative standards; however, quantitative standards are necessary. Some humane livestock concerns are so basic that they should be required through strong verifiable (quantitative) standards.

For example, exit doors in poultry houses should provide easy access to the outdoors for all birds, and a quantitative standard would ensure that this requirement is met. At one point, the Livestock Committee had a recommendation of at least 5 linear feet per 1,000 birds, with a minimum door height of 14 inches. The recommendation also stated that doors must be sufficiently distributed around the building. Currently, these minimum quantitative requirements appear to have been deleted from the recommendation, leaving it very vague.

Our visits to scores of certified organic egg houses around the country indicate that many have doors on just one side of the facility, making it difficult, if not impossible, for many of the birds to access the outdoors.

The current recommendation states only that “Birds must have sufficient exit areas to ensure that all birds have ready outdoor access. Exit areas must allow the passage of more than one bird at a time.” With such vague qualitative standards, certifiers will have to come up with their own interpretations of a “sufficient” exit area. With something so basic as a minimum door opening, why was the quantitative standard taken out?

Examples of standards that should be in the rule, not guidance

Many other aspects of animal welfare are currently proposed to be in guidance. We believe these, among many others, should be in the rule:

- Minimum space requirements for species other than poultry, such as hogs
- Providing and maintaining dry litter for poultry
- Packing poultry crates at a rate that allows all the bird to “lie down at the same time and none are on top of each other,” and ensuring sufficient ventilation to allow for respiration during transportation
- Ensuring appropriate temperature regulation during transport to the slaughterhouse
- Delivery of poultry for slaughter should be scheduled such that they are not deprived of water for longer than 12 hours

These, and others, are so basic to animal welfare that it is quite astounding that the requirements were omitted from the proposed rule or merely suggested as guidance.

Certain basic welfare needs are not addressed in the recommendation

To make matters worse, some basic welfare concerns appear neither in the recommendation for the rule, nor in guidance. For example:

- **Genetics:** Broilers have been bred for fast growth and large breast muscles, which has led to serious health issues and animal welfare concerns with fast-growing breeds.

Specifically, fast-growing breeds can reach market weight in as little as 7 weeks, but side effects of rapid growth include leg deformities and lameness, ruptured tendons in the legs, and problems with internal organs. Conditions including ascites are common in fast-growing breeds, whose heart and lungs cannot distribute enough oxygen throughout the enlarged body’s muscles.

The European Union’s organic standards address this serious welfare concern by prohibiting producers from slaughtering broilers before they reach 81 days of age (11.5 weeks). European organic producers therefore have little incentive to use fast-growing breeds, which reach market weight in as little as 6 or 7 weeks.

In the US, some welfare organizations vaguely address this concern. The Animal Welfare Approved label prohibits birds that have “undergone genetic selection to the point that their welfare is negatively affected,” and the Global Animal Partnership label, starting at Step 2, provides some restrictions that aim to avoid fast-growing breeds, such as requiring a low mortality rate in market birds and good leg health.

Since no other welfare labels address this serious welfare concern, it would be an opportunity for the organic standards to truly represent the gold standard in animal welfare.

- **Catching:** Workers that catch chickens (“catchers”) to put them in crates and on the truck destined for the slaughterhouse routinely carry up to 5 chickens, held by one leg, in each hand. This practice, which can lead to leg injuries in the chickens, is addressed only in guidance, which currently states that “Poultry should be handled quietly and firmly, with care taken to avoid unnecessary distress and dislocated or broken bones during catching and loading for transport.” Even in guidance, there is no suggested limit on the number of birds carried per catcher, or a recommendation that birds not be held by one leg.

The guidance also states that “Inspectors should discuss procedures for poultry catching and loading with the producer and must observe poultry being caught and loaded for slaughter at the annual inspection and note percentage of birds with broken/dislocated legs/wings.” But there is no guidance, or requirement in the rule, for what is considered to be a number of broken bones that is too high to require action. Is 1% of the birds with broken bones cause for concern, and action? 3%? 5%? 10%?

Numerous welfare organizations, including Animal Welfare Approved and Global Animal Partnership, address practices during catching, but in a limited way. The Global Animal Partnership requires only starting at Step 5 (their top rating) that catchers carry no more than 2 birds in each hand. Animal Welfare Approved requires that the chickens be caught and carried round the body or by both legs, specifically prohibited single leg carrying.

Again, this would be an opportunity for the organic label to truly be the gold standard in animal welfare.

- **Transport:** The guidance document merely states that broilers in transport for more than 12 hours should be given food and/or water. However, there is no suggested restriction on the duration of transport.

Most animal welfare standards address this basic welfare need. The Certified Humane label requires that the time between loading and unloading be no more than 10 hours. Global Animal Partnership requires transport to be no longer than 8 hours for all “steps,” and restricts transport time to 4 hours in steps 4-5. Animal Welfare Approved restricts transport time to 4 hours.

We realize that some of these standards, like so many other requirements in the organic rule, would be impossible to verify at all times. For example, restricting catchers to holding no more than 2 chickens per hand or requiring that they hold chickens by both legs would be difficult to verify without an inspector present

during every catching and loading process. However, this is not unlike nearly every other aspect of the organic standards and certification program – one does not, for example, expect an inspector on the farm every time a pesticide is applied, to ensure the material is approved. Nobody expects this level of verification from crop farmers, yet the standards are still specific and detailed regarding practices and materials that are prohibited.

Some have criticized the NOSB's attempt to develop clear and quantitative standards on the basis that they cannot be verified and expect too much of certifying agents. Certifiers could do spot inspections, as even the Livestock Committee's guidance recommendation suggests. But most importantly, as in other aspects of the organic standards, clear quantitative requirements give the industry clear standards, rather than vague recommendations.

Unequal concern for different species

As you may have noticed, most of the examples presented above of animal welfare concerns that have been omitted from the recommendation, either intentionally or unintentionally, are related to broilers.

This brings us to the third point: the level of detail in the recommendation varies by species, correlated to the amount of attention that certain industry lobbyists and research organizations have devoted to the particular species. In other words, detailed language is recommended for dairy cows, which are well represented in the NOSB process by numerous organizations, including The Cornucopia Institute.

Likewise, laying hens have been thoroughly discussed as both industry representatives and independent groups, like Cornucopia, have raised concerns regarding laying hens, and elicited broad public participation.

However, broilers (with a smaller market and a smaller number of commercial producers) have been left largely ignored. For example, in the entire document titled "Proposed Recommendation, Animal Handling, Transportation and Slaughter," the word "chicken" and "broiler" do not appear at all, and the word "poultry" appears only once – to exempt poultry crates from the bedding requirement. This mirrors the exemption in the federal Humane Methods of Slaughter Act, which provides minor protections to cattle, sheep and hogs during slaughter, but exempts birds, as if their welfare concerns do not matter (although they likely do matter to the majority of organic consumers—something that truly differentiates the organic marketplace).

We suggest that more feedback be requested for certain livestock, especially broilers, sheep, turkeys, and goats.

Poultry Space Requirements

While we are pleased to see that your recommendation, consistent with recent statement from the NOP, would outlaw porches as “outdoor access” for organic poultry, we urge you not to settle for outdoor space requirements that are far too low to bestow any real and meaningful welfare benefits to the animals or to protect the environment from wholesale defoliation and associated negative impacts.

Our report, *Scrambled Eggs*, which we released in the fall of 2010 (available at www.cornucopia.org), provides a comprehensive overview of the US organic egg industry, and provides arguments in favor of meaningful outdoor access.

In the outdoor space that is currently proposed – 2 ft² per laying hen and 1 ft² per broiler – a bird would not even be able to stretch his or her wings, let alone move around freely to engage in natural behaviors such as dust bathing, foraging and running/wing flapping.

We also note that the way the current space requirements are represented for broilers and turkeys is very confusing, and not consistent with the requirement for laying hens. Since the table is titled “minimum space requirements,” it is unclear whether 5 pounds is a minimum, or maximum, for every foot squared. We suggest that the table’s requirements be consistent (for example, 5 ft² per broiler).

We believe that 5 ft² for laying hens and broilers, and 5 ft² per 7.5 lbs. for turkeys, is the absolute minimum acceptable compromise to meet the welfare needs of the birds and the expectations of organic consumers.

A body of scientific literature, offered by animal husbandry specialists, confirms the numerous welfare benefits gained when birds are able to engage in natural behavior outdoors—including markedly reducing injuries stemming from aggression towards each other. With the proposed standard, the outdoor run would simply be too small to allow the birds to engage in any of these beneficial natural behaviors and will result in widespread environmental degradation.

In the European Union, organic standards have a strong animal welfare component, and require at least 43 ft² per bird for laying hens and broilers. The requirement for organic turkeys in the European Union is 107 ft² of outdoor space per bird. European standards also limit flock sizes to 3,000 laying hens per house, 4,800 broilers per house, and 2,500 turkeys per house.

In countries where land is in much shorter supply than in the United States, every organic henhouse or broiler house has ample outdoor space available to each flock. It should be noted that the organic egg market in the EU is almost twice as large as that of the United States (so these enhanced practices are obviously commercially viable).

It is also important to note that 5 ft² has been done successfully in the US organic egg industry – it is a realistic standard that is already being met by many commercial-scale organic producers in this country.

All but one of 80 farmer-members of the CROPP cooperative, selling organic eggs under the Organic Valley® brand name, currently meet the outdoor requirement for 5 ft², as do farmers associated with a number of other organic brands. More than 40 organic farms and marketers who are ranked in the highest category (5-egg rating) in The Cornucopia Institute’s Organic Egg Scorecard currently meet or exceed the requirement of 5 ft² (the majority grant much more than 5 ft²).

At last year’s fall NOSB meeting in Madison, Cornucopia presented nearly 1,700 hand-signed proxy letters from organic farmers and consumers, urging the Board to accept a standard of 5 ft² for organic laying hens.

We also urge you to accept a standard of 1.75 ft² per laying hen indoors, which is the current standard for major name-brand egg producers, including Organic Valley.®

To allow for aviary systems in the organic standards, the indoor space calculation should not be limited to the footprint of the building only, but should include all usable space in the building. Because aviary systems allow the birds to move about more freely, using vertical space in addition to horizontal space, and allows the birds to more easily escape aggressive flockmates, a more restrictive indoor space requirement would not be justified.

Standards should calculate the square footage for the multiple levels in aviaries and apply that to the adopted minimum square footage.

The rule should specify that producers with aviary systems cannot confine the birds within the aviaries (some aviary systems, like Big Dutchman Natura 60, allow the producer to close the systems, making them into what some producers call “glorified cages”).

Phase-In Periods

A phase-in period of one year, from the date that the rule goes into effect, would be acceptable. Given that the final rule is not likely to be approved by the USDA, published in the Federal Register, and brought into effect for some time after a NOSB vote, this would effectively give producers several years to come into compliance after a NOSB vote. There is ample precedent for this phase-in given the seemingly successful implementation of the new livestock standards (“pasture rule”) phase-in earlier this year.

Salmonella Concerns

Please note that Cornucopia compiled a comprehensive literature review and analysis regarding the prevalence of salmonella contamination on organic farms, which we submitted for your consideration, in its entirety, through www.regulations.gov.

The literature review shows that multiple European studies analyzing salmonella prevalence rates have shown that organic farms with outdoor runs are among the safest, while farms with cages are among the most dangerous.

We also included summaries of multiple studies that investigated risk factors for salmonella infection, which point to risk factors that include large flock size, cages, forced molting – all of which are associated with large-scale, caged operations.

Since the prohibition of outdoor space for salmonella prevention would not be based on sound science, we urge you reject any arguments you may receive from industrial-scale producers that outdoor access should be eliminated altogether.

Not ready for prime-time

For some species, stakeholders have been consulted and were intimately involved in the process of developing the recommendations. For other species, no groups have been active in ensuring that their needs are considered in the proposed rule. While broilers are an example covered earlier in this letter, other examples include sheep, goats, and turkeys.

The Livestock Committee Working Group convened over the summer was primarily focused on laying hens. Even on these calls, which were by invitation only, the majority representation in the egg business was by industry participants with larger, vertically integrated operations. Numerous egg producers, including commercial-scale organic egg companies that would support 5 sq. ft., were not invited. There was virtually no discussion about hogs, turkeys, sheep and goats.

How much outreach has been done to encourage organic producers to participate in the process – not just representatives of organic marketers that have the budget to attend NOSB meetings?

Because of the disproportionate resources being spent by industrial-scale egg producers, we are concerned that you have not adequately heard the balancing voices of those in the organic community who believe that outdoor space requirements for poultry should be meaningful – and by “meaningful,” we mean the space should be large enough to permit the birds to engage in natural instinctive behaviors without destroying the environment.

Organic producers who spend the majority of their time farming are challenged to comment on the rule, which is, at this point, very difficult to decipher. Between the existing language in the existing rule, the 2009 recommendations that have already

been adopted, the April 2011 language and the current recommendation, it would be nearly impossible for anyone not intimately involved in the process to make sense of where the current document stands on various issues.

In addition, only 26 days of public comment was provided, not giving enough time for organizations like Cornucopia to analyze the recommendations for other stakeholders and communicate with them.

We urge the Board to continue working on the development of clear benchmarks, that are compatible with OFPA and the existing regulations, which will protect the integrity of the organic label, dedicated and ethical organic producers, and the interests of the most important arbiter in these debates: the organic consumer.

Thank you for considering our concerns,

A handwritten signature in cursive script that reads "Charlotte Vallaey".

Charlotte Vallaey
Director, Farm and Food Policy
The Cornucopia Institute