



July 13, 2016

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

Docket: AMS-NOP-15-0012: NOP-15-06PR

RE: National Organic Program; Organic Livestock and Poultry Practices Proposed Rule

Dear Dr. Lewis:

The Organic Trade Association (OTA) is pleased to submit comments on the National Organic Program (NOP) proposed rule to amend the organic livestock and poultry production requirements in the current USDA organic regulations. This is a basic principle of organic production, and we agree that clarifications are needed in the regulations so that desired outcomes are clear, measurable, and enforceable.

OTA is the membership-based business association for organic agriculture and products in North America. OTA is the leading voice for the organic trade in the United States, representing organic businesses across 50 states. Its members include growers, shippers, processors, certifiers, farmers' associations, distributors, importers, exporters, consultants, retailers and others. OTA's Board of Directors is democratically elected by its members. OTA's mission is to promote and protect organic with a unifying voice that serves and engages its diverse members from farm to marketplace.

OTA supports NOP's efforts to create greater consistency in organic livestock practices

NOP is proposing amendments to existing regulations to create greater consistency in organic livestock practices. OTA strongly supports the rulemaking process, and we commend NOP for releasing a proposed rule that is based on 14 years of public input and animal welfare recommendations the National Organic Standards Board (NOSB) unanimously passed in 2011.

Since the inception of organic regulations, organic livestock and poultry practice standards have been a central component of the regulations at 7 CFR 205.239, stipulating "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 species, its stage of life, the climate, and the environment.” Unfortunately, the regulations have not been consistently interpreted, and various events have led to diverging practices and inconsistent application of the regulations. This has led to a greater and greater need for USDA to further clarify and develop the standards based on NOSB recommendations and level the playing field with regard to outdoor access for poultry.

NOP’s proposed regulations are the result of years of public and transparent work, and they reflect significant stakeholder feedback from consumers, farmers, processors, retailers, veterinarians, and experts in animal welfare and animal science. Although some important changes to the proposed rule are warranted and additional guidance is needed, we are generally in support of the proposal overall because it will clarify and strengthen existing livestock and poultry practice standards in the organic regulations, which, in turn, will better ensure consistent compliance by certified organic operations and respond to consumer expectations and demand.

Continuing on NOP’s scheduled comment process and moving to a final rule are not only necessary to ensure consistent compliance and enforcement of the livestock standards, but also critical in maintaining consumer confidence. Organic consumers drive the success of the organic industry by choosing organic products when they shop. Erosion of consumer’s confidence that organic regulations match their production values will inevitably result in loss of organic sales. Concerns about the living conditions and health care practices for livestock have the potential to impact the industry in widespread and significant ways since organic livestock production is dependent on the production of organic feeds, and manufacturing of organic processed foods is dependent on the availability and consistency of organic livestock products (eggs, milk, cheese). Loss of confidence in the manner in which organic poultry and livestock are raised will jeopardize the continued success of organic in the marketplace.

SUMMARY:

OTA is providing specific comments on each proposed provision included in NOP’s proposed rule in a chart below (Page 6). However, to introduce OTA’s suggestions to NOP on strengthening this proposal, we offer the following summary of key points:

- ***Implementation timelines:***
 - OTA believes the assumptions NOP made regarding the current state of the organic broiler and swine industries are inaccurate.
 - Organic broiler operations will need to build new barns and add new organic land to their operations to comply with the proposed indoor and outdoor stocking rates and maintain the current supply of organic chicken. As such, existing organic broiler operations should be provided 3 years to come into compliance with the indoor and outdoor stocking rate requirements.
 - Organic swine production currently typically provides outdoor access exclusively via concrete slab without soil components. To adjust their operations to include 50% soil in outdoor access areas, they will need to add land to their operations, and swine operations should be provided 3 years to come into compliance with the outdoor access requirements for mammalian livestock.

- **Outdoor access with 50% soil cover:**
 - There is concern that by requiring year-round outdoor access for all organic livestock and poultry, the regulations will require producers to act against their best judgement and force livestock and poultry onto ground under conditions that could jeopardize soil and water quality or risk animal health and safety.
 - OTA believes that there is adequate specificity and flexibility in the allowances for temporary confinement to alleviate these concerns, however, we strongly encourage NOP to develop guidance that squarely addresses this issue.
 - OTA's understanding of the proposed regulation is that "soil" in outdoor access areas of organic livestock operations must be managed in accordance with 7 CFR 205.203 and all other applicable practice standards that apply to organic crop land. "Soil" does not mean **bare** soil, and it must be managed in a way that fosters the growth of vegetation.
 - There is a clear tension between the stocking rates proposed by NOP and the need to manage soil areas in accordance with the other organic production requirements. The outdoor access requirements cannot trump an organic producer's *requirement* to prevent risks to soil and water contamination or risks to livestock health.
- **Stocking densities:**
 - OTA believes that, for laying hens, stocking rates should be based on square feet per bird, rather than pounds per square foot to best foster animal welfare outcomes in egg production.
 - NOP should develop appropriate stocking rates for each specific type of meat species (broilers, turkeys, ducks, and others). Similarly, NOP should develop an acceptable range of stocking rates for each of these meat species to accommodate variability in growth rates and mortality from flock to flock.

Specific suggestions for guidance and regulatory revisions are detailed in the chart provided below. To support OTA's position on these significant areas needing revisions, we offer the following more specific rationale:

IMPLEMENTATION TIMELINES

NOP's proposed implementation timeline consists of three main components:

- A 1-year timeline for all existing operations to come into compliance when the final rule is issued
- A 3-year timeline for new organic poultry operations to come into compliance with outdoor access requirements, recognizing that these operations may need to add land to their operations, and this land may need to undergo a 3-year transition to organic status
- A 5-year timeline for existing organic poultry operations to come into compliance with outdoor access requirements, recognizing the amount of time it will take to depreciate the significant investments made into production systems that will not comply with the proposed regulations

OTA supports NOP's thinking on all three of these timelines and believe this approach will support the effective implementation of the organic livestock and poultry practices rule when finalized. However, we request that NOP consider adding two additional aspects of production to the 3-year timeline: 1) avian indoor space requirements for broiler operations; and 2) mammalian outdoor space requirements for swine operations.

Avian Indoor Space Requirements

NOP makes some assumptions on the ability of the broiler industry to comply with the proposed regulations, which OTA believes to be inaccurate.

- NOP assumes 75% of organic broiler production complies with the proposed stocking densities. NOP cites the Organic Egg Farmers of America's 2014 survey on current production practices and assumes that since 75% of the broiler production represented in the survey did not comply with the stricter NOSB recommendation of 2.0 square feet per bird (or 2.9 lbs./sq. ft.), they *could* comply with NOP's proposed indoor and outdoor stocking rate of 5.0 lbs./sq. ft. OTA disagrees with this assumption. Based on feedback from OTA's organic broiler producer members, the vast *majority* of organic broilers are currently stocked at a rate of 6.0 – 7.0 lbs./sq. ft. (both indoors and outdoors). Reducing the stocking rate to 5.0 lbs./sq. ft. will require the construction of a significant amount of barns and incorporation of significant amounts of land for outdoor space. The new land brought into certification to accommodate the lower stocking rates may require a 36-month transition period to become eligible for organic status.
- NOP assumes that the current annual organic broiler production is roughly 16 million birds. OTA does not believe this assumption to be accurate. USDA National Agricultural Statistics Service 2014 Organic Producer Survey estimates that the annual production of organic broilers exceeds 43.2 million birds and anecdotally, OTA members have indicated that actual organic broiler production in the USA far exceeds the NASS survey results.

To avoid significant disruptions in the availability of organic chicken, additional time is necessary for the implementation of avian indoor space requirements. OTA strongly encourages NOP to include a 3-year implementation timeline for avian indoor space, particularly for broiler operations.

Mammalian Outdoor Space Requirements

NOP's proposed 3-year implementation timeline for avian outdoor access recognizes that new operations will need to bring additional land into organic certification to comply with the proposed regulations. We agree with this approach. However, NOP has overlooked the significant change to organic swine production that the proposed rules would cause.

- Currently, organic swine producers typically provide outdoor access to pigs exclusively with a concrete pad. These operations do not allow swine to come into contact with soil to avoid parasite infection and risks to soil and water quality.

- Requiring outdoor access for swine to include access to 50% soil will require addition of land to existing and new operations. This land may need to undergo a 36-month transition period to comply with organic land eligibility requirements.

Because of the significant changes in production systems that organic swine producers will be required to make as a result of this new regulation, and that the new land being brought into organic certification may require a 36-month transition period, OTA strongly encourages NOP to include a 3-year implementation timeline for mammalian outdoor space, particularly for swine operations.

OUTDOOR ACCESS AND SOIL

NOP proposes a new definition for outdoors, to include a minimum of 50% soil cover. OTA agrees with this approach to defining outdoors and recognizes the value in requiring that outdoors also include access to soil. However, our membership has indicated there is an inherent tension between livestock and poultry having meaningful access to the outdoors and their potential negative impact on soil and water quality. Additionally, there is concern that the proposed regulations will require outdoor access at times which could jeopardize soil and water quality or present risks to animals' health and safety. OTA does not view this tension as insurmountable, nor do we believe that NOP is misguided in requiring outdoor areas to have a minimum of 50% soil cover. However, we do believe that significant guidance is needed for producers and certifiers to navigate this added definition, so livestock and poultry have meaningful access to the outdoors and the existing organic practice standards are followed.

- NOP should develop guidance that describes when temporary confinement indoors or to yards and pads is justified, particularly to avoid risks to soil and water quality, as well as to animals' health and safety.
- NOP should develop guidance in coordination with the National Resource Conservation Service (NRCS) to avoid conflicts between organic production requirements and NRCS recommendations and practices.

AVIAN STOCKING DENSITIES

NOP proposes a number of strict stocking densities for avian species. In general, OTA supports the concept that defined stocking densities will result in animal welfare outcomes that consumers are demanding with the organic label. However, we are concerned with the approach that NOP has taken on developing the stocking densities, and we offer the following recommendations.

- Laying hen stocking densities should be based on a space per bird basis rather than a weight per space basis. Since laying hens typically occupy a barn for a longer period of time than broilers, tracking fluctuations in weights of layers is difficult for producers and certifiers. Additionally, animal welfare concerns in laying barns typically have less to do with the weight of birds per space and more to do with the concentration of individual birds. While both approaches can accomplish the same result, OTA believes that a space per bird approach to indoor and outdoor stocking densities for layers is easier for producers to implement and certifiers to verify. Therefore, we strongly urge NOP to utilize a space per bird approach for layers that accomplishes the same stocking densities that were proposed.

- Stocking densities should be developed for each separate avian meat species: broilers, turkeys, ducks, and others. It is unrealistic and inappropriate for a single stocking density to apply to all avian meat species, particularly considering the wide range of sizes encompassed by avian meat species. NOSB only provided a recommended stocking density for broilers and did not include stocking densities for the other avian meat species. However, we urge NOP not to interpret this as meaning that all avian meat species should be stocked at the same density. Rather, we strongly recommend that NOP develop distinct stocking densities that are appropriate for all distinct avian meat species.
- Avian meat species should have a range of stocking densities to accommodate variability in growth rates and mortality from flock to flock. Avian meat producers typically stock their barns to achieve a predetermined end stocking density goal based on industry accepted growth rates and mortality rates. Sometimes birds grow faster than expected and mortality is lower than expected. In these cases, producers may end their production cycle with a higher than expected stocking density. To accommodate the real variability in production, NOP should consider developing a range of acceptable stocking densities for each avian meat species.

SPECIFIC SUGGESTIONS FOR GUIDANCE AND REGULATORY REVISIONS:

Definitions (§ 205.2)

Section Title: Terms Defined	Current Wording	Type of action	Proposed Action	OTA Comments
205.2	N/A	New term	Beak trimming. The removal of the curved tip of the beak.	A REVISION IS NEEDED. OTA supports adding definition to what type of beak trimming is allowed. However, this definition does not provide adequate specificity to how much of the beak may be removed or if trimming of the lower beak would be allowed. OTA suggests including a specific measurement for the amount of the top beak which could be trimmed and how certifiers and operators should interpret this new definition with regards to trimming of the bottom beak.
205.2	N/A	New term	Caponization. Castration of chickens, turkeys, pheasants and other avian species.	OTA supports this new term
205.2	N/A	New term	Cattle wattling. The surgical separation of two layers of the skin from the connective tissue along a 2- to 4inch path on the dewlap, neck or shoulders used for ownership identification.	OTA supports this new term
205.2	N/A	New term	De-beaking. The removal of more than the beak tip.	OTA supports this new term

205.2	N/A	New term	De-snooding. The removal of the turkey snood (a fleshy protuberance on the forehead of male turkeys).	OTA supports this new term
205.2	N/A	New term	Dubbing. The removal of poultry combs and wattles.	OTA supports this new term
205.2	N/A	New term	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 can be confined if necessary. Indoor space for avian species includes, but is not limited to: Pasture housing. A mobile structure for avian species with 70 percent perforated flooring. Aviary housing. A fixed structure for avian species which has multiple tiers/levels with feed and water on each level. Slatted/mesh floor housing. A fixed structure for avian species which has both: (1) a slatted floor where perches, feed and water are provided over a pit or belt for manure collection; and (2) litter covering the remaining solid floor. Floor litter housing. A fixed structure for avian species which has absorbent litter covering the entire floor.	OTA supports this new term
205.2	N/A	New term	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.	OTA supports this new term
205.2	N/A	New term	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.	OTA generally supports the definition for ‘outdoors’ that NOP proposes, with the understanding that soil areas must be managed in accordance with § 205.203 and other applicable organic practice standards. However, OTA recommends that the area under building eaves be counted towards outdoor space calculations (see comments below at § 205.241(c)(6)), and should NOP accept OTA’s suggestion on eaves, we recognize that modification of the definition will be needed to ensure consistency in the final regulation.

205.2	N/A	New term	Perch. A rod or branch type structure that serves as a roost and allows birds to utilize vertical space in the house.	OTA supports this new term
205.2	N/A	New Term	Pullet. A female chicken or other avian species being raised for egg production that has not yet started to lay eggs.	OTA supports this new term
205.2	N/A	New term	Roost. A flat structure over a manure pit that allows birds to grip with their toes as they would on a perch.	OTA supports this new term
205.2	N/A	New term	Soil. The outermost layer of the earth comprised of minerals, water, air, organic matter, fungi and bacteria in which plants may grow roots.	OTA supports this new term
205.2	N/A	New term	Stocking density. The weight of animals on a given unit of land at any one time.	OTA recommends that NOP adopt stocking densities for laying hens on a space per bird basis (see comments below at § 205.241(b)(7)), and to ensure consistency in the final regulation, OTA recommends the following revision to this definition: Stocking density. The weight of animals <u>or number of animals</u> on a given unit of land at any one time.
205.2	N/A	New term	Toe clipping. The removal of the nail and distal joint of the back two toes of a male bird.	OTA supports this new term

Livestock Health Care Practice Standard (§ 205.238)

Section Title	Current Wording	Proposed Action	Proposed Wording	OTA Comments
205.238(a)(2)	(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);	Revision	(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.	OTA supports this requirement

205.238(a)(5)	(5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and	Revision	(5) Physical alterations may be performed to benefit the welfare or hygiene of the animals, or for identification purposes or safety. Physical alterations must be performed on livestock at a reasonably young age, with minimal stress and pain and by a competent person.	OTA supports this requirement
205.238(a)(5)(i)		New	(i) The following practices may not be routinely used and must be used only with documentation that alternatives methods to prevent harm failed: needle teeth trimming (no more than top 1/3 rd of the tooth) in pigs and tail docking in pigs.	GUIDANCE IS NEEDED. OTA supports NOP's proposed regulation to allow swine producers to use tail docking and needle teeth clipping as a means to prevent animal welfare concerns when alternative methods to prevent harm have failed. However, we encourage NOP to develop guidance to producers and certifiers to avoid routine use of these methods.
205.238(a)(5)(ii)		New	(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 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.	OTA supports this requirement
205.238(a)(7)		New	(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.	OTA supports this requirement

205.238(a)(8)		New	(8) Monitoring of lameness and keeping records of the percent of the herd or flock suffering from lameness and the causes.	OTA supports this requirement
205.238(a)(9)		New	(9) Ammonia levels in poultry houses must be less than 25 parts per million indoors. When ammonia levels in poultry houses exceed 10 parts per million, an operation must implement additional practices to reduce the ammonia levels below 10 parts per million.	<p>A REVISION IS NEEDED IN ADDITION TO GUIDANCE: Ammonia levels in poultry housing is a critical element of an animal welfare program. Currently, Global Animal Partnership Level 3 allows for a maximum limit of 20 ppm, and much of the organic broiler industry has aligned with this standard. Reducing the maximum limit to 10 ppm will require significant adjustment and increased monitoring burden on operations. NOP will need to provide producers and certifiers with guidance on proper instrumentation and methodology for monitoring ammonia levels to ensure consistency. Ammonia levels can range widely from season to season and throughout the day. Additionally, this requirement is directly tied with the new proposed requirements for justifying confinement of poultry at 205.241(d)(1). By requiring outdoor access at temperatures lower than 50 degrees, additional moisture will be drawn into poultry houses, which will make ammonia management more difficult.</p> <p>OTA suggest that NOP consider increasing the maximum ammonia levels to 20 ppm to align with existing animal welfare standards, particularly if NOP does not decide to modify the proposed temporary confinement allowance at 205.241(d)(1). It will also be critical for NOP to provide guidance on proper monitoring of ammonia levels in poultry housing.</p>
205.238(b)(3)		New	(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	OTA supports this requirement

205.238(c)(1)	(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 § 205.603, or any substance that contains a non-synthetic substance prohibited in § 205.604.	Revision	(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 §205.603, or any substance that contains a non-synthetic 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.	<p>A REVISION IS NEEDED: OTA generally supports this revision to clarify that young stock may continue to nurse their mothers even after allowed synthetic treatments have been administered. However, we also recognize that some producers rely on nurse cows to raise young stock, and NOP could consider the following revision:</p> <p>(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 §205.603, or any substance that contains a non-synthetic 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 <u>will not affect organic status of may be fed to their own offspring or other young stock nursing from treated animals.</u> Milk from animals undergoing treatment with prohibited substances cannot be sold as organic or fed to organic livestock.</p>
205.238(c)(2)	(2) Administer any animal drug, other than vaccinations, in the absence of illness;	Revision	(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.	<p>A REVISION IS NEEDED: OTA supports the concept behind prohibiting unnecessary treatment of organic livestock. However, we suggest the following revision to ensure clarity behind the intent of this provision:</p> <p>(2) Administer any animal drug in the absence of illness or to alleviate the absence of <u>pain or suffering</u> with the exception of: vaccinations and other veterinary biologics. <u>(i) Vaccinations and other veterinary biologics; and</u> <u>(ii) Anesthetics, analgesics, and sedatives used prior to surgery or physical alteration.</u></p>
205.238(c)(3)	(3) Administer hormones for growth promotion;	Revision	(3) Administer hormones for growth promotion, production or reproduction.	<p>GUIDANCE/CLARIFICATION IS NEEDED: OTA generally supports this revision, but is concerned that this prohibition could be interpreted to disallow the use of oxytocin in post parturition, since that use could be considered a stage of “reproduction.” OTA encourages NOP to clarify that this regulatory prohibition on hormones does</p>

				not apply to the use of oxytocin for post parturition therapeutic applications.
205.238(c)(8)		New	(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.	CLARIFICATION IS NEEDED: OTA supports the proposed addition of euthanasia guidelines, and generally find these revisions aligned with the current practices found in the organic livestock sector. However, we want to be sure that the practices prohibited by new section § 205.238(e)(2) are not in conflict with the forms of euthanasia allowed under this section. The American Veterinary Medical Association accepts “blunt force trauma” in S3.3.3 of its 2013 Edition “AVMA Guidelines for the Euthanasia of Animals.” OTA believes that the regulations around acceptable forms of euthanasia must be absolutely clear to ensure consumer’s expectations around animal welfare are met especially when an animal must be euthanized.
205.238(c)(9)		New	(9) Neglect to identify and record treatment of sick and injured animals in animal health records.	OTA supports this requirement
205.238(c)(10)		New	(10) Practice forced molting or withdrawal of feed to induce molting.	GUIDANCE/CLARIFICATION IS NEEDED: OTA believes that guidance is needed from NOP to clarify whether all means of ‘forced molting’ or only withdrawal of feed is prohibited under this new section. OTA supports the requirement to prohibit forced molting but recognizes more clarity is needed in the language to ensure NOP’s intent is consistently applied across all organic operations.
205.238(d)		New	(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	OTA supports this requirement

			certifying agent.	
205.238 (e)		New	(e) Euthanasia	OTA supports this requirement
205.238 (e)(1)		New	(1) Organic livestock producers must have written plans for prompt, humane euthanasia for sick or injured livestock.	OTA supports this requirement
205.238 (e)(2)		New	(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.	CLARIFICATION IS NEEDED: OTA supports the proposed addition of euthanasia guidelines, and agrees that specific prohibition of inhumane euthanasia methods is warranted. However, we want to be sure that the practices prohibited by this section are not in conflict with the forms of euthanasia allowed under section § 205.238(c)(8). The American Veterinary Medical Association accepts “blunt force trauma” in S3.3.3 of its 2013 Edition “AVMA Guidelines for the Euthanasia of Animals.” OTA believes that the regulations around acceptable forms of euthanasia must be absolutely clear to ensure consumer’s expectations around animal welfare are met especially when an animal must be euthanized.
205.238 (e)(3)		New	(3) Following a euthanasia procedure, livestock must be carefully examined to ensure that they are dead.	OTA supports this requirement

Mammalian Living Conditions (§ 205.239)

205.239	Livestock Living Conditions	Revision	Mammalian Livestock Living Conditions	OTA comments
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205.239(a)(1)	(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 species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with §§ 205.239(b) and (c). 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 simultaneously without crowding and without competition for food. Continuous total confinement of any animal indoors is prohibited. Continuous total confinement of ruminants	Revision	(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 §§ 205.239(b) and (c). 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 confinement of ruminants in yards, feeding pads, and feedlots is prohibited.	GUIDANCE IS NEEDED. OTA supports the revisions in this section when taken within the context of the additional proposed sections and revisions in 205.239. OTA is concerned that the proposed revised requirements for outdoor access for mammalian livestock may be interpreted by producers and certifiers to require that animals have access to soil at times of the year that may pose a risk to soil or water quality or injury to the animals. NOP has indicated that their intention is to not require these situations to occur through the proposed regulations. However, there may be cases when producers only provide outdoor access via yards and feeding pads, except during the grazing season. If these producers operate in climates when this situation occurs regularly, must they also create outdoor access areas that include 50% soil cover? OTA believes that guidance is necessary to alleviate concerns that the proposed regulations will force animals out on soil when conditions pose a risk to soil or water quality or injury to the animals.
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	in yards, feeding pads, and feedlots is prohibited.			
205.239(a)(3)	(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	Revision	(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 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	OTA supports this requirement
205.239(a)(4)(i)	(i) Natural maintenance, comfort behaviors, and opportunity to exercise;	Revision	(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;	<p>A REVISION IS NEEDED: OTA is concerned that this section, as written, does not accurately convey NOP’s intention to not prohibit the use of free-stall or tie-stall barns in dairy operations. These styles of barns include stalls, which allow animals to lie down, but not in “full lateral recumbence” or to turn around within the stalls. Stalls in these barns fosters a clean environment for the cows and allows for better manure management. To ensure that this provision does not inappropriately impede dairy producers who employ free-stall or tie-stall barns, OTA suggests the following revision:</p> <p>(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;</p>

205.239(a)(4)(iv)	New	(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.	OTA supports this requirement
205.239(a)(6)	New	(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.	GUIDANCE IS NEEDED: OTA suggests NOP develop guidance around the meaning of “build-up of disease-carrying organisms” to ensure this provision is consistently applied across all production systems and producers and certifiers know when adequate cleanliness of housing and equipment has not been achieved.
205.239(a)(7)	New	(7) Dairy young stock may be housed in individual pens under the following conditions:	OTA supports this requirement
205.239(a)(7)(i)	New	(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.	A REVISION IS NEEDED: OTA is concerned with NOP’s proposal to tie calves’ living conditions with an event (i.e. weaning), rather than a timeframe (i.e. 6 months). Weaning can take place anytime from 2-6 months on typical organic dairy farms, and the specific event, weaning, does not necessarily trigger an animal welfare concern, if the calf is not housed in a group. OTA suggests the following revision: (i) Until weaning six months of age, 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.
205.239(a)(7)(ii)	New	(ii) Dairy young stock shall be group-housed after weaning.	A REVISION IS NEEDED: OTA suggests the following revision: (ii) Dairy young stock shall be group-housed after weaning <u>by six months of age</u> .
205.239(a)(7)(iii)	New	(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 205.239(c).	OTA supports this requirement
205.239(a)(8)	New	(8) Swine must be housed in a group, except:	OTA supports this requirement
205.239(a)(8)(i)	New	(i) Sows may be housed individually at farrowing and during the suckling period;	A REVISION IS NEEDED: OTA is concerned that proposed requirements outlined at 205.239(a)(10) may create unsanitary conditions for farrowing and suckling when sows are housed

			individually. Deep bedding, which is required to permit and encourage rooting, will, inadvertently, create situations where piglet health may be compromised should it be required during farrowing and suckling. OTA suggests revising the proposed standard at 205.239(a)(10) to accommodate this temporary stage of life concern (see below).
205.239(a)(8)(ii)	New	(ii) Boars.	OTA supports this requirement
205.239(a)(8)(iii)	New	(iii) Swine with documented instances of aggression or recovery from an illness.	OTA supports this requirement
205.239(a)(9)	New	(9) Piglets shall not be kept on flat decks or in piglet cages.	OTA supports this requirement
205.239(a)(10)	New	(10) Exercise areas for swine, whether indoors or outdoors, must permit rooting, including during temporary confinement events.	<p>A REVISION IS NEEDED: As mentioned above, OTA has concerns with this requirement as it applies to temporary individual housing of sows during farrowing and suckling. During those times, sows and litters must be provided with clean bedding, as required in 205.239(a)(3), but a requirement to provide deep bedding or rooting material can create a hygiene concern for newborn piglets. OTA suggests the following revision:</p> <p>(10) Exercise areas for swine, whether indoors or outdoors, must permit rooting, including during temporary confinement events, <u>except when sows are housed individually during the farrowing and suckling period.</u></p>
205.239(a)(11)	New	(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 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.	<p>A REVISION IS NEEDED: OTA generally supports the concept proposed in this section. However, we are concerned that a requirement to provide a stall for each animal at the facility at any given time will create an undue burden on producers without an additional animal welfare benefit. Dairy barns are typically stocked with more animals than stalls because animals never attempt to lie down all at the same time. Because a certain amount of animals will be eating, drinking, or standing, never will stalls all be occupied at a given time, and this requirement will require producers to either reduce herd sizes or expand barns without an animal welfare benefit. OTA suggests the following revision:</p>

			<p>(11) In confined housing with stalls, at least one stall must be provided for each animal in the facility at any given time <u>an adequate number of stalls must be provided to allow animals to express normal patterns of behavior</u>. 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.</p>
205.239(a)(12)	New	<p>(12) At least 50 percent of outdoor access space must be soil, except for temporary conditions, which would threaten the soil or water quality when outdoor access must be provided without contact to the soil.</p>	<p>GUIDANCE IS NEEDED: OTA understands NOP’s intention for outdoor space made available to organic animals be meaningful, and we agree that soil cover is a critical element of an organic animal’s access to the outdoors. However, it is also critical that organic animals not contribute to environmental degradation from contamination of soil or water and that animals not be subject to conditions that jeopardize their health or safety. With this in mind, OTA requests NOP to consider providing guidance to producers and certifiers for the following:</p> <ol style="list-style-type: none"> 1. Ruminant animals – additional guidance will be necessary for when producers may confine animals to yards and feeding pads outside of the grazing season. As mentioned earlier, there may be regions and seasons when animals should not be allowed contact with soil, and in order to avoid conflicting with other organic requirements, NOP should develop clear guidance around which “temporary conditions” justify confinement to yards and feeding pads in order to provide outdoor access. 2. Swine – Currently, organic swine producers provide outdoor access exclusively by using yards and feeding pads. Requiring outdoor areas to also include 50% soil cover will create a significant change in how organic swine producers currently operate. Organic swine producers will need to add land to their operations, which may require a 36-month transition period. Additionally, swine are uniquely destructive to soil structure and

				vegetation when rooting and are prone to parasite infestation. As such, it is critical that NOP clarify the conditions when swine may be confined to yards and feeding pads to avoid risks to soil and water quality. NOP should also consider whether swine production requires a unique approach to outdoor access to adequately balance animal welfare concerns (i.e. permitting natural behaviors) with the real risks to soil and water quality and parasite loads that can occur when swine over impact soil areas.
205.239(b)(7)	(7) Breeding: Except, that, bred animals shall not be denied access to the outdoors and, once bred, ruminants shall not be denied access to pasture during the grazing season;	Revision	(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	OTA supports this requirement
205.239(b)(8)	(8) 4-H, Future Farmers of America 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 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	Revision	(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 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 § 205.239 (b)(6), facilities where 4-H, National FFA Organization, and other youth events are held are not required to be certified organic for the participating	OTA supports this requirement

			animals to be sold as organic, provided all other organic management practices are followed.	
205.239(d)	(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: Except, that, 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 simultaneously without crowding and without competition for food. The finishing period shall not exceed one-fifth	Revision	(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: Except, that, 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 feedlot to feed 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.	OTA supports this revision

	(1/5) of the animal's total life or 120 days, whichever is shorter.			
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Avian Living Conditions (§ 205.241)

205.241	New	Avian Living Conditions	OTA comments
205.241(a)	New	(a) The producer of 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; and 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 § 205.241(d)	OTA supports this requirement
205.241(b)	New	Indoor space requirements	OTA supports this requirement
205.241(b)(1)	New	(1) All birds must be able to move freely, and engage in natural behaviors.	OTA supports this requirement
205.241(b)(2)	New	(2) Ventilation must be adequate to prevent buildup of ammonia. Ammonia levels must not exceed 25 ppm. Producers must monitor ammonia levels on a monthly basis. When ammonia levels exceed 10 ppm, producers must implement additional practices to reduce ammonia levels below 10 ppm.	A REVISION IS NEEDED IN ADDITION TO GUIDANCE: Ammonia levels in poultry housing is a critical element of an animal welfare program. Currently, Global Animal Partnership Level 3 allows for a maximum limit of 20 ppm, and much of the organic broiler industry has aligned with this standard. Reducing the maximum limit to 10 ppm will require significant adjustment and increased monitoring burden on operations. NOP will need to provide producers and certifiers with guidance on proper instrumentation and methodology for monitoring ammonia levels to ensure consistency. Ammonia levels can range widely from season to season and throughout the day. Additionally, this requirement is directly tied with the new proposed requirements for justifying

			confinement of poultry at 205.241(d)(1). By requiring outdoor access at temperatures lower than 50 degrees, additional moisture will be drawn into poultry houses, which will make ammonia management more difficult. OTA suggest that NOP consider increasing the maximum ammonia levels to 20 ppm to align with existing animal welfare standards, particularly if NOP does not decide to modify the proposed temporary confinement allowance at 205.241(d)(1). It will also be critical for NOP to provide guidance on proper monitoring of ammonia levels in poultry housing.
205.241(b)(3)	New	(3) For layers and mature birds, artificial light may be used to prolong 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.	<p>A REVISION IS NEEDED IN ADDITION TO GUIDANCE: OTA is concerned with how this proposed requirement will be consistently enforced across the organic poultry sector. To ensure consistent application of the regulation, OTA suggests NOP revise the lighting requirement to include a specific lux level that corresponds to the currently proposed requirement that natural light “be sufficient indoors on sunny days so that an inspector can read and write when all lights are turned off.” With a specific lux level identified in the regulation, NOP can clarify, in guidance, that producers may monitor, and certifiers verify, light levels either with a lux monitor or by observational assessments which may include the ability of an inspector to read and write when all lights are turned off.</p> <p>Additionally, OTA requests clarification from NOP on whether its intention for the 16-hour maximum on artificial lighting was to be inclusive or exclusive of the time period when lights are gradually lowered at night. OTA suggests that the 16-hour maximum on artificial lighting exclude the time when lighting is gradually reduced at night.</p>
205.241(b)(4)	New	(4)The following types of flooring may be used in shelter provided for avian species:	OTA supports this requirement
205.241(b)(4)(i)	New	(i) Mesh or slatted flooring under drinking areas to provide drainage;	OTA supports this requirement
205.241(b)(4)(ii)	New	(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	OTA supports this requirement

		birds may freely dust bathe without crowding.	
205.241(b)(4)(iii)	New	(iii) Litter must be provided and maintained in a dry condition.	OTA supports the requirement that litter be maintained in a dry condition, but we are concerned that the requirement to provide outdoor access for poultry, particularly broilers, at temperatures lower than 50 degrees will create insurmountable challenges to producers in maintaining dry bedding. See comments under 205.241(d)(1)
205.241(b)(5)	New	(5) Poultry houses must have sufficient exit areas, appropriately distributed around the building, to ensure that all birds have ready access to the outdoors.	OTA supports this requirement
205.241(b)(6)	New	(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 to be contain perch and roost space.	GUIDANCE IS NEEDED: OTA supports this requirement for perch space provided that “roosts,” as defined in the proposed definitions, also count towards the minimum amount of perch space required in poultry barns. Since “roosts” and “perches” serve similar functions, they ought to both count towards the minimum requirement of perch space provided in barns. OTA would like to see guidance developed on which types of birds NOP does not feel are perching birds and for which this requirement would not apply.
205.241(b)(7)	New	(7) For layers, no more than 2.25 pounds of hen per square foot of indoor space is allowed at any time, except;	A REVISION IS NEEDED: OTA generally does not support utilizing a pounds per square foot approach for egg laying poultry. The challenges to this approach include variable growth rates and sizes, variable mortality from flock to flock, and a belief that animal welfare concerns that pertain to layers do not stem from pounds of bird per square foot, but rather from the space provided for each bird regardless of the specific weight of the bird. As such, OTA suggests revising this section on stocking rates to take a square foot per bird approach as NOP delineates in Table 1 – Indoor Stocking Density – unit conversion on pg. 56 of the proposed regulation. Based on this chart, OTA suggest the following revisions: (7) For layers, no more than 2.25 pounds of hen per square foot <u>less than 2.0 square feet per hen</u> of indoor space is allowed at any time,

			except;
205.241(b)(7)(i)	New	Pasture housing: no more than 4.5 pounds of hen per square foot of indoor space;	Pasture housing: no more than 4.5 pounds of hen per square foot less than 1.0 square foot per hen of indoor space;
205.241(b)(7)(ii)	New	Aviary housing: no more than 4.5 pounds of hen per square foot of indoor space;	Aviary housing: no more than 4.5 pounds of hen per square foot less than 1.0 square foot per hen of indoor space;
205.241(b)(7)(iii)	New	Slatted/mesh floor housing: no more than 3.75 pounds of hen per square foot of indoor space; and	Slatted/mesh floor housing: no more than 3.75 pounds of hen per square foot less than 1.2 square feet per hen of indoor space; and
205.241(b)(7)(iv)	New	Floor litter housing: no more than 3.0 pounds of hen per square foot of indoor space.	Floor litter housing: no more than 3.0 pounds of hen per square foot less than 1.5 square feet per hen of indoor space.
205.241(b)(8)	New	(8) For pullets, no more than 3.0 pounds of pullet per square foot of indoor space may be allowed at any time.	(8) For pullets, no more than 3.0 pounds of pullet per square foot less than 1.0 square feet per pullet of indoor space may be allowed at any time.
205.241(b)(9)	New	(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.	<p>A REVISION IS NEEDED: OTA strongly encourages NOP to develop stocking rate standards for each major class of meat bird: broilers, turkeys, ducks, and others.</p> <p>OTA's concerns regarding stocking rates using a pounds per square foot approach for meat type poultry are not as significant as they are for egg layers. This is the approach typically taken by other animal welfare certifications, and producers are accustomed to operating within this set of guidelines. However, OTA does have some concerns with the specific metrics that NOP has proposed:</p> <ol style="list-style-type: none"> 1. NOP should provide a range of acceptable stocking densities to allow for fluctuations in growth rates and mortality. Producers typically stock barns with a number of birds to meet a target end stocking density based on standard growth rates and mortality. If birds grow faster than predicted or have lower mortality rates than predicted, producers could face a situation where their end stocking rate is higher than the fixed stocking rate proposed by NOP. Will these producers be out of compliance with the regulation? Will they be required to depopulate a certain number of animals to meet the static limit on stocking rates? By providing a stocking rate range, NOP can better accommodate the inherent variability in organic poultry

			<p>production.</p> <p>2. Turkeys and other meat birds should have a different stocking rate than broilers developed to their specific growth patterns. It does not make sense to apply a single stocking rate for all types of meat birds, particularly as those animals can have such dramatic range in sizes. NOSB, in its final recommendation to NOP on organic livestock and poultry practices, did not specify a specific stocking rate for turkeys, ducks, and other meat species. However, OTA does not believe that the absence of a recommended stocking rate for these species means that they should be subject to the recommended stocking rate for broilers. Developing species specific stocking rates for all meat birds is appropriate, and we strongly urge NOP to develop this additional aspect in the final regulation.</p>
205.241(b)(10)	New	(10) All birds must have access to scratch areas in the house.	OTA supports this requirement
205.241(b)(11)	New	(11) Poultry housing must be sufficiently spacious to allow all birds to move freely, stretch their wings, stand normally, and engage in natural behaviors.	OTA supports this requirement
205.241(c)	New	Outdoor Space Requirements	OTA supports this requirement
205.241(c)(1)	New	(1) Outside access 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 (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 § 205.241(d).	OTA supports this requirement
205.241(c)(2)	New	(2) Exit areas for birds to get outside must be designed so that more than one bird at a time can get through the opening and that all birds within the house can go through the exit areas within one hour.	<p>A REVISION IS NEEDED: OTA does not support NOP's proposed regulation for ensuring adequate exit areas in organic poultry housing. Based on feedback from both producers and certifiers, this approach is nearly impossible to implement or verify. OTA strongly recommends that NOP develop a regulation that provides a standard amount of outdoor exit areas, so that producers can design facilities they know will meet the regulation, and certifiers can verify compliance quickly and at all times of the year. In the case when a producer is inspected during a time when birds</p>

			are temporarily denied access to the outdoors, it will be impossible for a certifier to verify whether a producer is in compliance with this proposed regulation based on on-site observations.
205.241(c)(3)	New	(3) For layers, no more than 2.25 pounds of hen per square foot of outdoor space may be allowed at any time.	A REVISION IS NEEDED: As we mention in our comments above, OTA feels that stocking rates for layers should be based on a square foot per bird basis rather than a weight per square foot basis. As such we propose the following revisions: (3) For layers, no more than 2.25 pounds of hen per square foot <u>less than 2.0 square feet per hen</u> of outdoor space may be allowed at any time.
205.241(c)(4)	New	(4) For pullets, no more than 3.0 pounds of pullet per square foot may be allowed at any time.	(4) For pullets, no more than 3.0 pounds of pullet per square foot <u>less than 1.0 square feet per pullet</u> may be allowed at any time.
205.241(c)(5)	New	(5) For turkeys, broilers, and other meat type species, no more than 5.0 pounds of bird per square foot may be allowed at any time.	A REVISION IS NEEDED: As we mention in our comments on indoor stocking rates, OTA believes that a minimum range of stocking rates will better accommodate the inherent variability in growth rates and mortality seen in organic poultry production. We also believe that NOP should develop separate stocking rates for different meat birds to accommodate the drastic differences in bird sizes. We recommend NOP develop outdoor stocking rates for broilers, turkeys, ducks, and other meat type birds.
205.241(c)(6)	New	(6) Space that has a solid roof overhead and is attached to the structure providing indoor space does not meet the definition of outdoor access and must not be included in the calculation of outdoor space.	CLARIFICATION IS NEEDED: OTA understands that the intention behind this proposed provision is to ensure that poultry be provided meaningful outdoor access. However, building eaves would be considered “space that has a solid roof overhead and is attached to the structure providing indoor space.” Eaves would also not be considered “indoor space.” How do producers and certifiers count the space under an eave if it is not outdoor space, and it is not indoor space? OTA recommends that space under building eaves count towards the outdoor space provided to the flock.
205.241(c)(7)	New	(7) Shade may be provided by structures, trees or other objects in the environment.	OTA supports this requirement
205.241(c)(8)	New	(8) At least 50 percent of outdoor access space must be soil.	OTA supports this requirement
205.241(d)	New	(d) The producer of an organic poultry operation may temporarily confine birds. Each instance of confinement must be recorded. Producers may confine birds because of:	OTA supports this requirement

205.241(d)(1)	New	(1) Inclement weather, including, when air temperatures are under 40 degrees F or above 90 degrees F;	<p>A REVISION IS NEEDED: OTA has concerns about requiring organic poultry, particularly broilers, to have access to the outdoors at 40 degrees. Broilers will typically not seek the outdoors at those temperatures, and opening doors below 50 degrees will increase litter moisture, which will make ammonia management more difficult. OTA suggests the following revision:</p> <p>(1) Inclement weather, including, when air temperatures are under 40 50 degrees F or above 90 degrees F;</p>
205.241(d)(2)	New	(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; and	<p>GUIDANCE IS NEEDED: OTA supports codifying confinement for stage of life to accommodate the needs of young birds. We support these timelines proposed by NOP. However, pullets are typically raised in pullet barns for 16 weeks and then moved to laying barns at that time. Since confinement is justified for pullets for the entire 16 weeks of their life at the pullet barn, do these types of poultry houses need to have outdoor access areas? OTA requests guidance on the requirement for outdoor access for pullets housed in barns for no more than 16 weeks.</p>
205.241(d)(3)	New	(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.	<p>CLARIFICATION IS NEEDED: OTA supports NOP's proposed allowance to confine birds during outbreaks or relevant migratory pathways. OTA believes organic producers must be able to maintain biosecurity prevention measures on their operations and that this proposed requirement allows for producers to accomplish this goal. However, OTA requests that NOP clarify whether "a documented occurrence of a disease" includes the presence of a disease in wild poultry as well as commercial flocks. If producers cannot confine their birds until a disease is discovered in a commercial flock, they may not be able to mitigate their biosecurity risks. However, if there is not enough specificity on which diseases justify temporary confinement, producers may use this ambiguity as a loophole to justify confinement when there is detection of any poultry disease. OTA strongly recommends that only the documented presence of a commercially significant disease in wild birds, such as Highly Pathogenic Avian Influenza or virulent Newcastle's disease, be allowed as justification for temporary confinement of organic poultry indoors.</p>

205.241(d)(4)	New	(4) Risk to soil or water quality.	OTA supports this requirement
205.241(d)(5)	New	(5) Preventive healthcare procedures or for the treatment of illness or injury (neither various life stages nor egg laying is an illness or injury).	OTA supports this requirement
205.241(d)(6)	New	(6) Sorting or shipping birds and poultry sales: Provided, the birds are maintained under continuous organic management, throughout the extent of their allowed confinement.	OTA supports this requirement
205.241(d)(7)	New	(7) Nest Box training: Except, that, birds shall not be confined any longer than two weeks to teach the proper behavior.	OTA supports this requirement
205.241(d)(8)	New	(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.	OTA supports this requirement
205.241(e)	New	(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.	GUIDANCE IS NEEDED: OTA recognizes that outdoor access for poultry will invariably create a potential situation for contamination of crops, soil, or water from plant nutrients, heavy metals, or pathogenic organisms. OTA membership indicates that by meeting the maximum stocking rate of 2.25 pounds of hen per square foot (for layers) or 5.0 pounds of bird per square foot (for meat birds), there will likely be times when birds may over impact outdoor areas and prevent vegetation from re-growing. It will be critical for NOP to develop guidance that assists producers and certifiers in ensuring that poultry have meaningful access to the outdoors without creating a natural resources concern.

Transport and Slaughter (§ 205.242)

205.242	New	Transportation and Slaughter	OTA supports this new section
205.242(a)	New	(a) Transportation	
205.242(a)(1)	New	(1) Certified organic livestock must be clearly identified as organic and transported in pens within the livestock trailer clearly labeled for organic use and be contained in those pens for the duration of the trip.	GUIDANCE IS NEEDED: OTA is concerned that a literal interpretation of this proposed regulation will require unnecessary burden on producers, particularly those transporting organic broilers for slaughter. Often transport trucks are used for both organic and conventional broilers, and the organic identity is maintained on shipping documentation and bills of lading. It is unclear the added integrity provided by actually putting an “organic” label on the pens when being transported in such a fashion. OTA requests common sense guidance from NOP on administering this proposed provision that aligns with NOP’s “Sound and Sensible” initiative.
205.242(a)(2)	New	(2) All livestock must be fit for transport to auction or slaughter facilities.	OTA supports this requirement
205.242(a)(2)(i)	New	(i) Calves must have a dry navel cord and be able to stand and walk without human assistance.	OTA supports this requirement
205.242(a)(2)(i)	New	(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.	OTA supports this requirement
205.242(a)(3)	New	(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.	OTA supports this requirement
205.242(a)(4)	New	(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 certified organic operations.	GUIDANCE IS NEEDED: OTA supports the requirement for bedding on trailer floors to ensure the safety and comfort of organic animals during transport. However, for short trips, rubber mats are adequate to meet these requirements and should be considered adequate bedding. OTA suggests NOP provide guidance on this requirement to accommodate this common practice.

205.242(a)(5)	New	(5) Arrangements for water and organic feed must be made if transport time, including all time on the mode of transportation, exceeds twelve hours.	OTA supports this requirement.
205.242(a)(5)(i)	New	(i) The producer or handler of an organic livestock operation must transport livestock in compliance with the Federal Twenty-Eight Hour Law (49 USC 80502) and the regulations at 9 CFR 89.1-89.5.	OTA supports this requirement.
205.242(a)(5)(ii)	New	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.	OTA supports this requirement.
205.242(a)(6)	New	(6) Organic producers must have in place emergency plans adequate to address possible animal welfare problems that might occur during transport.	OTA supports this requirement.
205.242(b)	New	Mammalian Slaughter	OTA supports this requirement.
205.242(b)(1)	New	Producers and handlers who 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.	OTA supports this requirement.
205.242(b)(2)	New	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.) and the regulations at 9 CFR parts 313 and 352 regarding the humane handling and slaughter of exotic animals.	OTA supports this requirement.
205.242(b)(3)	New	Producers and handlers who slaughter organic livestock or exotic animals must provide all non-compliant 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.	OTA supports this requirement.
205.242(c)	New	(c)Avian Slaughter	

205.242(c)(1)	New	(1)Producers and handlers who 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)).	OTA supports this requirement.
205.242(c)(2)	New	(2) Producers and handlers who slaughter organic poultry must provide all non-compliant 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.	OTA supports this requirement.
205.242(c)(3)	New	(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:	CLARIFICATION IS NEEDED: OTA is concerned that the wording of this proposed provision may implicate the requirement that Kosher or Halal slaughter facilities use a stunning step prior to exsanguination. NOP has indicated that it is not their intention to require that religious slaughter facilities use a stunning step. However, this intention is not clearly communicated by including the stunning requirement for operations that are “exempt from or not covered by the requirements of the Poultry Products Inspection Act.” OTA understands this provision is directed at processors operating under state inspection and who do not fall under the inspection requirements of USDA FSIS, however religious slaughter facilities are also “exempt” from certain aspects of the Poultry Products Inspection Act, and additional clarity is needed.
205.242(c)(3)(i)	New	(i)No lame birds may be shackled, hung, or carried by their legs;	OTA supports this requirement.
205.242(c)(3)(ii)	New	(2)All birds shackled on a chain or automated system must be stunned prior to exsanguination; and	OTA supports this requirement.
205.242(c)(3)(iii)	New	(3)All birds must be irreversibly insensible prior to being placed in the scalding tank	OTA supports this requirement.

Biosecurity Concerns Raised in Response to NOP’s Proposed Rule

OTA recognizes that some concerns have been raised with NOP’s proposed requirements for outdoor access, citing the need to protect organic flocks from poultry-related diseases including Highly Pathogenic Avian Influenza (HPAI) and virulent Newcastle disease. Limiting exposure to migrating

waterfowl, which may transmit these diseases, is acknowledged by USDA APHIS, FDA and State Veterinarians as an important step in preventive approaches to avoid disease outbreaks. Accordingly, NOP's proposed rule appears to have taken these concerns into account, and the existing regulations include provisions that ensure that organic poultry operations will not be putting their flocks at a greater risk for exposure or infection by complying with the proposed regulations.

Outdoor access is fundamental to the organic regulations, and it is what consumers expect. In response to the biosecurity concerns raised and in support of the proposed rule, OTA has consolidated the following information to demonstrate the fact that organic producers are required to comply with all food safety and biosecurity rules, and that they will be able to comply with the outdoor requirements of the proposed rule without a negative impact on biosecurity efforts.

HPAI in flocks provided access to the outdoors

During the 2015 outbreak of HPAI in poultry flocks in the U.S., APHIS conducted extensive investigations of outbreak patterns and developed conclusions around what vectors caused the outbreak and how producers can best guard against exposing their flocks to disease vectors moving forward. In its June 15, 2015, report (attached), APHIS suspects that wild birds were responsible for the initial introduction of HPAI into commercial poultry, but concludes that the disease was spreading between operations through other means. The report points to several potential routes for disease proliferation including "sharing of equipment between an infected and non-infected farm, employees moving between infected and non-infected farms, lack of cleaning and disinfection of vehicles moving between farms, and reports of rodents or small wild birds inside poultry houses." Notably, APHIS did not implicate poultry access to the outdoors as a cause of introduction of HPAI to commercial poultry flocks, nor did they indicate that poultry access to the outdoors was a factor in the spread of the disease.

Salmonella concerns and egg safety

FDA adopted the Egg Safety Rule in 2009 following a lengthy rulemaking process. FDA was seeking to reduce *Salmonella enteritidis* (SE) in eggs. One of its strategies was to prevent SE by limiting the exposure of poultry to potential disease vectors. Wild birds, wild animals, rodents and flies were all identified as concerns for SE contamination. FDA focused on prevention measures both in the poultry house and the adjacent grounds. The NOP requirement for outdoor access was expressly considered in the Egg Safety rulemaking. During the comment period for the final rule, FDA highlighted the compatibility of the organic outdoor access standard and the Egg Rule with the following comment, "We agree that it would be difficult to prevent stray poultry and other animals from entering the grounds of the farm, and we believe it is sufficient to keep stray animals out of the poultry house. Therefore, in the final rule, we have changed the requirement for stray animals so that it applies only to poultry houses rather than the entire grounds. Further, we have consulted with AMS, which administers the National Organic Program, and AMS has informed us that this requirement would not make it impossible for eggs to qualify as organic."

[74 Fed. Reg. 33030, 33038-33039 (July 9, 2009)]

No scientific evidence has been presented by USDA or FDA showing hens allowed to have outdoor access are more susceptible to SE than those kept indoors. FDA considered NOP requirements when it adopted the Egg Safety Rule. FDA crafted the final rule to be consistent with NOP requirements for outdoor safety, and concluded that doing so did not compromise food safety.

Current biosecurity risk mitigation provisions

Despite the lack of evidence implicating outdoor access as a cause of recent poultry disease outbreaks in commercial operations, it is acknowledged that outdoor access may be a risk factor that producers should take into account when developing their biosecurity procedures. Organic regulations currently allow for temporary confinement of poultry indoors because of “conditions under which the health, safety, or well-being of the animal could be jeopardized.” (7 CFR 205.239(b)(3)). This provision has been interpreted by organic operators, organic certifiers, and NOP to include times when disease outbreaks are occurring or when the potential for exposure to wild birds is high (i.e. during migratory times in recognized flyways). NOP issued Policy Memo 11-12 (attached) and includes this in its program handbook to clarify that outdoor access requirements do not supersede APHIS guidance on

biosecurity and that producers and certifiers “may work together to determine an appropriate method and duration of confinement of organic poultry flocks without a loss of organic certification.” Additionally, NOP has developed a “Biosecurity in USDA Organic Poultry Operations” fact sheet (attached) which further clarifies requirements under the current organic regulations and measures producers can take to ensure biosecurity in their operations without violating the organic standards.

Proposed biosecurity risk mitigation provisions

The proposed animal welfare regulations take these provisions further by proposing to add specificity for conditions under which the temporary confinement of poultry indoors would be allowed. In the proposed regulation 7 CFR 205.241(d)(3), temporary confinement is allowed because of “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 to relevant migratory pathway must be present in order to confine birds.” This proposed regulation acknowledges that confinement may be necessary to ensure biosecurity and adds definition to which conditions must be present in order to justify confinement.

APHIS review of proposed regulations

NOP provided organic stakeholders with an overview of the proposed regulations following its release on April 7, 2016, and clarified key provisions of the proposal in a webinar to stakeholders on April 15, 2016. In both of these public communications, NOP stated that APHIS has reviewed the proposed regulations and “determined that it would not have any negative impact on APHIS biosecurity efforts surrounding HPAI or other poultry diseases of concern.” This statement from APHIS is also included in a Question and Answer document developed by NOP on the proposed rule.

HPAI and other poultry diseases are a real concern for producers of all sizes and operation types. It is widely acknowledged that wild birds may be a risk factor, and avoiding contact with this vector is a critical element for any poultry operation's biosecurity protocols. However, while APHIS has pointed to infected wild birds as a potential source for infectious poultry diseases, it has not implicated outdoor access for organic poultry as a cause of initial outbreaks or spread of these diseases.

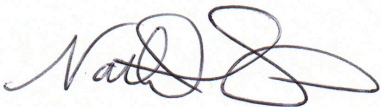
USDA organic regulations, which require outdoor access for poultry, were drafted with the acknowledgement that contact with wild birds may be a risk factor in biosecurity. Accordingly, the regulations have always included provisions that allow for temporary confinement when these risks are the greatest. The proposed animal welfare regulation adds further definition to these provisions and does not hamper organic producers' ability to develop and implement sound biosecurity preventive practices. Additionally, APHIS, the federal agency charged with ensuring the health of America's poultry, has reviewed the proposed rule and determined it would not have negative impact on biosecurity efforts. **The regulatory changes in this proposed rule should not be misinterpreted as weakening organic producers' ability to prevent disease outbreaks in their organic flocks.**

CONCLUSION

OTA is pleased to see that USDA has moved forward with rulemaking based on NOSB's recommendations. We urge USDA to continue its process in a timely and efficient manner and issue a final rule as soon as possible to create greater consistency in organic livestock practices and to maintain consumers' trust.

On behalf of our members across the supply chain and the country, OTA thanks the National Organic Program for the opportunity to comment.

Respectfully submitted,



Nathaniel Lewis
Farm Policy Director
Organic Trade Association

cc: Laura Batcha
Executive Director/CEO
Organic Trade Association