



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

June 8, 2017

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

Submitted electronically to www.regulations.gov

Re: Docket No. AMS-NOP-17-0031-0002 National Organic Program: Organic Livestock and Poultry Practices

Dear Dr. Lewis:

On behalf of the Animal Welfare Institute (AWI), I am disappointed to be once again submitting comments on the Organic Livestock and Poultry Practices (OLPP) rule, as the rule has been the subject of extensive research, review and prior public comment. AWI urges NOP to implement the OLPP final rule before or on its effective date of November 14, 2017 (Option 1).

AWI strongly supports policy initiatives that promote higher welfare, sustainable farming. AWI has been at the forefront of efforts to improve the animal welfare standards of the NOP since before the NOP first promulgated organic regulations in 2000. AWI has testified at National Organic Standards Board (NOSB) meetings, submitted comments to the board, and engaged our members in the NOP and NOSB processes. AWI also participated in the NOSB's Livestock Issues Working Group to provide expertise to the Livestock Committee as it drafted its 2011 Animal Welfare and Stocking Rates recommendations to the NOP.

Additionally, AWI created the Animal Welfare Approved (AWA) certification program, which is generally viewed as representing the "gold standard" for animal welfare farming practices in the United States. A large percentage of AWA-certified farmers are also certified as USDA Organic, and, consequently, AWI has worked with many organic farmers over the years.

The following discussion supports AWI's position that NOP should implement the OLPP final rule without further delay.

I. The OLPP Final Rule has Extensive Support

Since NOP first promulgated organic regulations in December 2000, there has been a lack of specific requirements for animal welfare, which has resulted in great variability in the level of animal care provided by organic producers. Some producers raise animals on pasture with high welfare, while others raise animals in a manner similar to conventional, intensive agriculture. In some instances organically raised animals are never even given the opportunity to go outdoors, for example. This inconsistency has led to consumer confusion, a decrease of trust in the Certified Organic label, and unfair competition among organic producers.

The OLPP rule is desperately needed to help improve the organic program. For over 20 years, organic consumers, farmers, organic trade associations, and the general public have weighed in and shown support for improving organic animal welfare standards. If implemented, the OLPP rule will maintain a baseline level of care for the tens of millions of animals raised in the USDA Organic program each year, which will better ensure the integrity of the Certified Organic label.

A key reason organic consumers choose to pay more for organic foods is because they believe animals raised under organic systems are treated better. A 2017 survey from Consumer Reports found that 86 percent of organic consumers say that it is extremely or very important that the animals used to produce organic food are raised on farms with high animal welfare standards. Organic consumers also support specific practices included in the OLPP final rule. For example, Consumer Reports found that 83 percent of organic consumers say that it is extremely or very important that eggs labeled “organic” come from hens that were able to go outdoors and had sufficient outdoor space to move freely.¹

Organic farmers and producers also support the implementation of the OLPP final rule. For example, 334 certified organic beef, pork, dairy and poultry producers have released a statement urging NOP to implement the OLPP final rule. Farmers believe the OLPP final rule will even the playing field between farmers whose standards are closely aligned with consumer expectations and the few large-scale producers who have lower standards and deceive consumers into paying a premium for the Certified Organic label. Large companies including United Natural Foods Inc., Applegate Natural and Organic Meats, Pete & Gerry’s Organics, and Smucker Natural Foods also approve of the implementation of the final rule.

The NOP’s own advisory board has continuously stood behind stronger animal welfare standards in organic regulations. At the NOSB’s spring 2017 meeting the board unanimously voted to encourage the USDA to implement the OLPP final rule. In the joint resolution, the NOSB recognized “that consumers’ trust of the organic label and industry growth depends on the strength and consistent application of the organic regulations.”

¹ Animal Welfare Survey. Consumer Reports National Research Center. Mar 18, 2017. Accessed May 23, 2017 from <http://greenerchoices.org/wp-content/uploads/2017/04/2017-Animal-Welfare-Survey-Public-Report.pdf>.

II. Little Opposition to the OLPP Final Rule Exists

Most of the opposition to the OLPP rule comes from a handful of large-scale egg producers that raise animals in conditions similar to conventional cage-free operations. These large-scale producers make up just 1 percent of organic egg farmers, and produce approximately 16 percent of organic eggs.² Although more than 95 percent of organic farmers already comply with the OLPP rule, this powerful minority has continued to prevent the widely supported OLPP rule from moving forward.

A handful of national and state trade associations also oppose the OLPP. Most of their concerns mimic those of large-scale producers that do not meet OLPP standards; this should not come as a surprise, as (mostly non-organic) large-scale producers lead national and state trade associations. Cal-Maine is an active participant in some of these associations. For example, at the time the Texas Poultry Federation (TPF) submitted comments on the OLPP, Cal-Maine's vice president of operations was serving as the president of the TPF. (Cal-Maine has been a prominent opponent of the OLPP.) Similarly, Cal-Maine's vice president and chief operations officer sits on the board of directors of the US Poultry and Egg Association, which also opposes the rule.

Animal welfare organizations, organic producers, consumers, and scientists have participated in a 20-year process to help develop standards codified in the OLPP final rule. Trade associations, such as the National Pork Producers Council and the National Cattlemen's Beef Association, chose not to participate in this collaborative process. Now, at the eleventh hour, these trade groups are voicing opposition to the rule—this would appear to be not because they care about the organic program or consumers who buy organic products, but because they do not want the government to promulgate *any* legally-binding standards for animal welfare.

III. Response to Common Arguments in Opposition to the OLPP Final Rule

Opposition Argument: OLPP final rule will increase disease risk

Contrary to the assertions of the rule's opponents, providing birds with outdoor access does not significantly increase mortality rates. To estimate the rule's impact on mortality, the NOP referred to the USDA's Animal and Plant Health Inspection Service published statistics on organic egg production for 2013.³ APHIS found that average mortality in U.S. organic layer flocks was 4.9 percent at 60 weeks, and on more than half of all organic farms, mortality at 60 weeks was below 4 percent. APHIS noted that mortality was similar for organic and nonorganic farms.⁴

² USDA Agriculture Marketing Service. Economic Impact Analysis of Proposed Regulations for Living Conditions for Organic Poultry, page 14. Aug 2012. Accessed May 25, 2017 from <https://www.ams.usda.gov/sites/default/files/media/Poultry%20Living%20Conditions%20Economic%20Impact%20-%20Phase%203.pdf>.

³ USDA Animal and Plant Health Inspection Service. Layers 2013, Part IV: Reference of Organic Egg Production in the United States, 2013. Nov 2014. Accessed Jun 7, 2017 from https://www.aphis.usda.gov/animal_health/nahms/poultry/downloads/layers2013/Layers2013_dr_PartIV.pdf.

⁴ USDA Agricultural Marketing Service. Organic Livestock and Poultry Practices Final Rule, Questions and Answers. Jan 2017. Accessed Jun 7, 2017 from <https://www.ams.usda.gov/sites/default/files/media/OLPPEExternalQA.pdf>.

An increase in mortality can be avoided by good husbandry and environmental practices. For example, mortality from predation can be reduced by the use of overhead protection outdoors. A review of farm profiles in the Cornucopia Institute's *Organic Egg Scorecard* reveals that organic egg producers scoring the highest marks report annual death losses in the range of 2 to 5 percent.⁵ Some of the large corporate organic producers expressing concern for a potential increase in death losses were among those arguing at NOSB meetings against the need to report or even monitor mortality rates.

Industrial-scale organic producers also suggest that giving birds access to the outdoors contributes to disease outbreaks, such as avian influenza (AI). But little evidence exists to support the assertion that a connection exists between outdoor access and AI. In fact, research suggests the opposite—that large-scale poultry operations are more often the source of virulent strains of AI. Research shows that milder strains of AI are more likely to mutate into more virulent strains in crowded, indoor poultry operations rather than among flocks of birds raised outdoors.⁶

After the 2015 national outbreak of highly pathogenic AI, the chief veterinary officer of the United States at the time, Dr. John Clifford, testified in a congressional hearing that the transmission of the virus is not affected by whether birds are indoors or out.⁷ In fact, that outbreak was concentrated in large, indoor confinement operations, not on farms with birds outdoors. According to the USDA, there were ten times as many cases of bird flu detected in commercial operations as in backyard flocks during the 2015 outbreak.⁸ Moreover, officials in South Korea—where bird flu has hit especially hard—recently found that poultry operations housing more than 100,000 chickens were *548 times* more likely to be affected by bird flu than those with fewer than 4,000 chickens.⁹

The AI virus does not easily survive sunlight and the dry conditions found in outdoor access systems. Instead, it is more likely to survive and spread in or among crowded, unsanitary indoor poultry houses.¹⁰ Moreover, the virus has been known to spread among indoor confinement

⁵ Cornucopia Institute, *Organic Egg Scorecard*. Accessed Jun 8, 2017 from <https://www.cornucopia.org/organic-egg-scorecard/>.

⁶ National Organic Coalition. *Avian Influenza and Outdoor Access for Organic Poultry Flocks*. Accessed Jun 7, 2017 from http://www.nationalorganiccoalition.org/_literature_130075/Avian_Influenza_and_Outdoor_Access_for_Organic_Poultry.

⁷ U.S. Senate Committee on Agriculture, Nutrition, & Forestry. *Committee hearing on highly pathogenic avian influenza*. Jul 7, 2015. Accessed June 7, 2017 from <https://www.agriculture.senate.gov/hearings/highly-pathogenic-avian-influenza-the-impact-on-the-us-poultry-sector-and-protecting-us-poultry-flocks>.

⁸ USDA Animal and Plant Health Inspection Service. *HPAI 2015/15 Confirmed Detections*. Accessed Jun 7, 2017 from https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian-influenza-disease/sa_detections_by_states/hpai-2014-2015-confirmed-detections.

⁹ *Chickens at Large Poultry Farms More Prone to Avian Influenza*. The Korea Bizwire. Apr 20, 2017. Accessed Jun 7, 2017 from <http://koreabizwire.com/chickens-at-large-poultry-farms-more-prone-to-avian-influenza/81222>.

¹⁰ National Organic Coalition. *Avian Influenza and Outdoor Access for Organic Poultry Flocks*. Accessed Jun 7, 2017 from

operations, even when no contact with wild birds has occurred. According to the USDA, potential risk factors identified during the 2015 outbreak included the sharing of company trucks and trailers between farms, the practice of company representatives visiting multiple farms, and the practice of renderers servicing multiple farms.¹¹

Those arguing against outdoor access on the basis of disease risk appear to have done little to address the risk in confinement operations. On the other hand, to reduce the risk of AI outbreaks, some farms have transitioned to pasture-based operations. In the documentary *At the Fork*, Marcus Rust, CEO of Rose Acre Farm—the second-largest egg producer in the country—said his bird-flu losses have led him to raise his poultry on pasture. "Five million chickens on that farm and this disease hits, they're all dead," he says. "It's made us look at it from a standpoint of, 'we won't build farms as big [and crowded] as we've built them in the past.'"¹²

The USDA has provided adequate protections against the spread of diseases, such as bird flu, in the OLPP rule. The rule allows the temporary confinement of animals in response to conditions "under which the health, safety, or well-being of the animal could be jeopardized." The final rule also removed a provision in the proposed rule that would have required a documented occurrence of disease in the region or migratory pathway to temporarily confine animals.¹³ Continuing to suggest that outdoor access increases the risk of disease represents an attempt to frighten consumers and to deflect attention from the true issue, which is the need to provide higher-welfare conditions for animals on organic farms.

Opposition Argument: OLPP final rule will reduce consumer choice

NOP has acknowledged that the proposed rule will have a negative impact on the availability of organic products derived from animals, eggs specifically, for a period of time. We believe that other farmers will enter the organic market to fill the void, and that most consumers, if made aware of the trade-off between fewer products in the short term and higher welfare in the long run, would support the decisions made by NOP in the final rule. In certain markets where organic eggs are in limited supply, consumers will still be able to buy eggs from cage-free hens, which is essentially what many of them were getting in the past when they purchased organic eggs.

Opposition Argument: organic production does not encompass animal welfare

Animal welfare is integral to the success of the USDA's organic program. According to the USDA, the new animal welfare rule will ensure continued consumer support of the Certified

http://www.nationalorganiccoalition.org/_literature_130075/Avian_Influenza_and_Outdoor_Access_for_Organic_Poultry.

¹¹ USDA Animal and Plant Health Inspection Service. Epidemiologic and Other Analyses of HPAI-Affected Poultry Flocks. Sep 9, 2015. Accessed Jun 7, 2017 from https://www.aphis.usda.gov/animal_health/animal_dis_spec/poultry/downloads/Epidemiologic-Analysis-Sept-2015.pdf.

¹² Lovece, F. Film Review: *At the Fork*. *Film Journal International*. Jul 7, 2016. Accessed Jun 7, 2017 from <http://www.filmjournal.com/reviews/film-review-fork>.

¹³ USDA Agricultural Marketing Service. Organic Livestock and Poultry Practices Final Rule. *Federal Register*. Jan 19, 2017. Accessed Jun 7, 2017 from <https://www.federalregister.gov/documents/2017/01/19/2017-00888/national-organic-program-nop-organic-livestock-and-poultry-practices>.

Organic label, which drives \$43 billion in sales of organic products.¹⁴ Public opinion surveys conducted by Consumer Reports and others show that a large percentage of consumers believe organically certified products should come from animals who have been raised to a higher standard of welfare. For instance, according to a survey commissioned by the American Society for the Protection of Cruelty to Animals, over 90 percent of consumers support requiring access to open pasture, sufficient space for the majority of animals at any given time, and natural ground, not concrete, for organic certification.¹⁵

Opposition Argument: producers cannot meet OLPP standards without significant hardship

The small number of farmers who do not already comply with the OLPP final rule have five years to make the necessary changes to comply with the rule. If some organic farmers are unable to give birds outdoor access and comply with the new rule, they can still sell their eggs in the growing “cage free” market. Companies such as Cal-Maine and Herbruck’s (which have led opposition to the rule) already hold large shares of other specialty egg markets, such as “cage free” and “no antibiotics,” and could sell their eggs that are currently labeled organic in those markets for a premium price. If the few producers that do not meet organic standards decide to leave the organic market, then other small to mid-size, higher-welfare organic producers will be able to absorb more of the market.

To conclude, please proceed with Option 1, as this is the only option that will ensure the integrity and continued success of the USDA Certified Organic label. Thank you for your thoughtful consideration of our comments.

Sincerely,



Dena Jones
Director, Farm Animal Program
Animal Welfare Institute

¹⁴ USDA Agriculture Marketing Service. Regulatory Impact Analysis and Final Regulatory Flexibility Analysis. Accessed Jun 7, 2017 from <https://www.ams.usda.gov/sites/default/files/media/OLPPSupplementalDocAnalysis.pdf>.

¹⁵ American Society for the Prevention of Cruelty to Animals. Research on Consumer Perception of Organic Food Standards for Treatment of Animals. Apr 2014. Accessed Jun 7, 2017 from http://www.asPCA.org/sites/default/files/aspca_organic_labeling_public_memo_4-10-14.pdf.