



ORGANIC LIVESTOCK AND POULTRY PRACTICES FINAL RULE

Questions and Answers – January 2017

General Questions and Explanations

What does this rule do?

This rule sets production standards for organic livestock and poultry, including transport and slaughter. This action assures consumers that organically produced products meet a consistent standard by resolving the current ambiguity about outdoor access for poultry. It also establishes clear standards for raising, transporting, and slaughtering organic animals and birds. This rule will provide for effective compliance and enforcement, as well as fair competition among organic livestock producers.

Why is the rule necessary?

A lack of clarity in organic livestock and poultry standards has led to inconsistent practices among organic producers. For example, as a result of ambiguous standards for what constitutes “outdoor access” for poultry, there are currently two very different organic egg production systems in the United States: operations whose outdoor space consists of an enclosed porch with a roof, mesh walls and cement floor, and operations that provide birds with access to pasture. Both production systems are currently able to utilize the organic seal and capture a premium from consumers.

Multiple recommendations from the National Organic Standards Board (NOSB), a 15-member Federal advisory committee, and an Office of Inspector General audit asked USDA to bring consistency to organic livestock and poultry production for two reasons. First, they note that consistent standards are important to consumer confidence in the organic brand. Consumers expect the organic seal to indicate that a consistent standard has been followed, but in this case, it has not been. If consumers begin to doubt the integrity of the seal, it may erode confidence in the \$43 billion organic industry.

Second, they note the issue of producer fairness. Returning to the egg example, the majority of organic egg producers – including both small and large operations – provide their birds with access to pasture and do so because consumers expect that organic birds come into contact with soil and vegetation and can exhibit natural behaviors. The added costs associated with this type of production are balanced by the premium provided by the organic seal. When porch-based systems capture that same premium without incurring the same costs, pasture-based systems are unable to fairly compete. The recommendations USDA has received, which are echoed in many public comments on the proposed rule, call on us to level the playing field for all producers.

This rule also responds to direction in both the Organic Foods Production Act and the final rule that created the National Organic Program to develop standards for organic livestock and takes into account significant public input on these issues.

What are the key components of the final rule?

The final rule addresses the following key points:

1. Requires that producers provide animals with daily access to the outdoors and that outdoor areas include vegetation and/or soil. Additionally, exit doors must be distributed to ensure animals have ready access to the outdoors. It does not allow enclosed porches to be considered outdoors or to meet the requirement for outdoor access.
2. Specifies the amount of space required indoors for chicken broilers and layers, prohibits forced

molting, restricts the use of artificial light, limits the amount of ammonia in the air indoors, and requires perching space for laying chickens indoors.

3. Describes when producers can confine animals indoors temporarily and codifies flexibility for producers to confine animals when their health, safety or well-being could be jeopardized.
4. Adds humane handling requirements for transporting livestock and poultry to sale or slaughter, and clarifies humane slaughter requirements.
5. Prohibits several kinds of physical alteration, like de-beaking chickens or docking cows' tails.
6. Provides a phased implementation plan, allowing producers reasonable time to implement the rule.

Aren't organic standards already in place for organic livestock and poultry?

The current USDA organic regulations have broad and general requirements for ensuring the well-being of organic livestock and poultry. For all organic livestock, the regulations already require an environment that allows animals to express natural behaviors; preventive practices to reduce the likelihood of illness; and protection from conditions that jeopardize an animal's well-being, such as predators and adverse weather. This rule adds more details to animal production and handling requirements of organic production, which will ensure consistency and transparency across organic production and handling systems, bolster consumer confidence, and strengthen the market for organic products.

How does this rule improve the existing regulations?

The rule clarifies existing requirements, creates new areas of standards, and protects the integrity of the USDA organic seal. While the regulations have required grazing on pasture for cattle and dairy animals, this rule clarifies and expands on standards for organic livestock and poultry care, especially maximum indoor stocking densities and outdoor access for poultry. The rule also includes detailed standards for mammalian and poultry slaughter, handling, transport, and poultry living conditions.

What sort of input has been received to date?

AMS received 6,675 written comments in response to the proposed rule. Nearly 80 percent of these (5,180 comments) were form letters and the vast majority of these were from individuals associated with animal welfare and consumer organizations.

A wide range of individuals and organizations commented on the rule, including producers, producer associations, handlers, certifying agents, consumers and consumer groups, animal welfare organizations, veterinarians, state government agencies, foreign government agencies, and trade associations or organizations. In addition, Members of Congress sent multiple letters to the Secretary.

Animal welfare groups submitted petitions (with over 102,000 signatures) expressing strong support for the proposed rule. Smaller-scale organic farmers and organic trade groups generally expressed support for the proposed rule. Some livestock and poultry boards and producers expressed opposition, particularly to outdoor avian stocking density requirements. Commenters also requested clarification on soil and natural resource conservation requirements, biosecurity, health care practice standards, and transport and slaughter standards.

What does it mean for biosecurity if more organic birds are going outside?

Although the majority of organic poultry producers already provide their birds with access to pasture, a number of commenters expressed concerns that this rule would create biosecurity risks if additional birds were put on pasture. AMS worked diligently to align the final rule with the best practices of Federal agencies focused on biosecurity and food safety, particularly with USDA's Animal and Plant Health Inspection Service and the Food and Drug Administration, and consulted with these agencies



during the final rulemaking process. The final rule continues to allow organic producers to temporarily confine animals and birds when conditions could jeopardize their health, safety, or well-being, a practice that has been successfully implemented in the past. AMS also added additional flexibility for producers to determine conditions under which temporary confinement may be required. USDA's factsheet on Biosecurity in Organic Poultry Operations provides an overview of biosecurity practices and other resources that would be helpful to organic producers, and USDA will continue to provide guidance to organic certifiers as they work with state governments and other entities to protect the health and wellbeing of organic poultry flocks.

Do mortality rates increase when birds are outside?

USDA's Animal and Plant Health Inspection Service (APHIS) published statistics on organic egg production for 2013 (APHIS, 2014). This is the best resource to estimate how the requirements for outdoor access in this final rule would impact mortality rates because this described mortality rates among U.S. organic egg operations. APHIS found that average mortality in U.S. organic layer flocks was 4.9 percent at 60 weeks and 6.8 percent over the useful life of the flock. It also found that on more than half of all farms, mortality at 60 weeks was below 4 percent, while only 11 percent of farms experienced mortality rates greater than 10 percent. This same survey reported that about 66 percent of organic production is raised on pasture or with uncovered outdoor access while 35 percent had porches or covered outdoor access. Mortality was similar for organic and nonorganic farms.

What are the costs and benefits of the final rule?

Clear and verifiable standards for organic livestock and poultry production are essential to ensuring consumer confidence in the organic market, which in 2015 was worth over \$43 billion in the U.S. alone. The modifications to the organic regulations will allow for the continued expansion of the organic livestock and poultry industry while increasing organic integrity and meeting consumer expectations. The rule provides a level playing field for organic producers by ensuring consistent practices across all organic livestock and poultry operations. This rule will also facilitate uniform enforcement of organic livestock and poultry standards.

To estimate the costs and benefits of the rule, AMS describes three different possible scenarios.

The first scenario assumes that all certified organic operations will choose to comply with this rule and remain in the organic market. We also assume that number of organic birds continues to grow at past growth rates during the implementation period. Under this scenario, annualized costs associated with coming into compliance are \$28.7 to \$31 million, while annualized benefits are \$16.3 to \$49.5 million.

The second scenario also assumes a stable rate of market growth during the rule's implementation period, but recognizes that some organic operations may choose to exit the organic market rather than comply with the requirements. We assume a worst-case scenario in which two-thirds of large aviary operations, representing nearly 50 percent of organic egg production, exit the organic market and transition to the cage-free market in the sixth year after this rule takes effect (2022). In this scenario, we also assume that new operations choose to enter the organic market in the five years *after* the rule is published, including porch-based operations that would have to acquire additional land or make costly adjustments to their systems in order to come into compliance in year six. We then assume that a similar proportion of new operations choose to exit the organic market in year six and transition to the cage-free market. This scenario is highly unrealistic, since businesses would be unlikely to choose to enter the organic market knowing that they would then immediately have to make costly adjustments. In this scenario, annualized costs are \$11.7 to \$12.0 while annualized benefits are \$4.5 to \$13.8 million.



For the third scenario, AMS assumes that only compliant operations will enter the organic market after the rule is published. For current operations, AMS assumes the same worst-case scenario that two-thirds of large aviary systems exit the organic market and transition to the cage-free market in 2022 when the rule is fully implemented. Under this scenario, annualized costs are \$8.2 million for producers who stay in the organic market, while benefits are estimated to be \$4.1 to \$12.4 million.

Under the second and third scenarios, AMS also estimated the foregone profits for organic egg producers who move to the cage-free market. While some input costs fall when producers make this shift, there is also a reduction in the price premium they are able to capture from the marketplace. Because foregone revenues are not a direct cost of compliance with the rule, they are totaled separately from estimated compliance costs. In scenario two, foregone revenue is \$79.5 to \$86.3 million. This includes foregone revenues for two-thirds of the aviaries currently in operation, as well as for a similar proportion of future entrants, assuming a constant rate of growth of the market. For scenario three, the foregone revenue is \$45.6 to \$49.5 million.

Costs to existing organic poultry producers include:

- Broilers: Organic broiler chicken producers may need to build new housing to maintain production levels and comply with indoor stocking density requirements.
- Layers: Some organic egg producers may need to make changes to comply with outdoor stocking density and outdoor space requirements for laying hens. Producers who have utilized porch-based systems may face higher feed costs to produce the same quantity of eggs. In addition, organic laying operations that use screened porches as the only means of outdoor access will need to modify the porches and provide additional land to provide an adequate outdoor access area and be in compliance with the regulations. They will have up to 5 years to implement the new outdoor space requirements.

Will the rule increase the cost of organic eggs?

AMS considered the potential impact that the rule could have on egg prices under the worst-case scenario in which 50 percent of production moves to the cage-free market when the rule is fully implemented in 2022. To do this, AMS considered various sources that analyze consumer demand for organic eggs and literature on demand elasticity (responsiveness to changes in price). AMS estimates that if 50 percent of production moved to the cage free market in 2022, the price of organic eggs would increase from a baseline of \$4.50/doz to \$5.74/doz when the rule is fully implemented. Again, we consider this a worst-case scenario.

How does this rule create opportunities for existing organic poultry producers?

- Growth opportunities for pastured poultry: AMS expects that pasture-based operations – including the majority of organic egg producers, who currently provide access to pasture – will have incentive to expand existing organic operations, or transition to organic certification, to capture growing consumer demand. The clarity and certainty provided by the standards – as well as the increased consumer confidence in the USDA organic seal – will encourage these types of producers to invest further in organic poultry and egg production.
- Eliminates need for dual certification: The requirements in this final rule meet or exceed many private animal welfare certification standards, so AMS expects producers to decrease participation in other certification programs. This would streamline their business practices by



reducing redundant and duplicative paperwork and a need for separate animal welfare certification.

Does this rule affect my operation?

You may be affected by this action if you are engaged in the organic meat, egg, poultry, dairy, or animal fiber industries. Those potentially affected may include, but are not limited to:

- Individuals or business entities that are considering organic certification for a new or existing livestock farm or slaughter facility.
- Existing livestock farms and slaughter facilities that are currently certified organic under the USDA organic regulations.
- Certifying agents accredited by USDA to certify organic livestock operations and organic livestock handling operations.
- Many organic livestock and poultry producers in the United States already comply with the requirements of this rule. To determine whether you or your business may be affected by this action, you should carefully read the regulatory text of the rule.

When will the new requirements become effective?

The requirements of this rule must be implemented by March 20, 2018, except for the following:

- Year One: Within one year of publication of the final rule, all provisions, except for the outdoor access requirements for layers and indoor space requirements for broilers, must be implemented.
- Year Three: Within three years of publication of the final rule: (1) certified organic broiler operations must comply with *indoor* space requirements; (2) new egg laying facilities which apply for organic certification three years or more after publication of the rule, must comply with all requirements in order to obtain certification.
- Year Five: Within five years of publication of the final rule, all organic poultry operations must comply with the new *outdoor* access requirements.

Livestock and Poultry Production Questions

How did the final rule address public comments?

AMS made the following changes to the final rule based on public comments and input from other Federal agencies.

- Housing for dairy cattle
The NOSB recommended that animals be able to lie down, “in full lateral recumbence.” To respond to concerns from producers that the requirement would have required expensive housing modifications and could have had negative consequences, particularly for dairy cattle health, AMS removed the requirement.
- Soil and vegetation
Many commenters stated that the proposed requirement for outdoor access areas have at least 50 percent soil-based areas contradicts the current requirement for organic producers to maintain soil and water quality. AMS clarified the various requirements for soil and vegetation in outdoor areas to differentiate between the needs and management of avian and mammalian species, and to avoid circumstances in which animals or birds on bare soil could compromise soil



health or water quality. AMS also worked closely with USDA's Natural Resources Conservation Service (NRCS) to ensure alignment between the final rule and NRCS best practices.

- Poultry houses
Access to the outdoors and door spacing must promote and encourage outside access for all birds on a daily basis. Additional proposed requirements about the size of doors on poultry houses have been removed in the final rule.
- Stocking densities for turkeys
AMS deferred establishment of indoor and outdoor stocking densities for turkeys and other avian species. The rule establishes stocking densities for chickens only. AMS will consider addressing space requirements for these birds in future rulemaking, once we have received additional recommendations from the NOSB. Producers of organic turkey and other species are still subject to all other requirements of the final rule.

Does the rule address outdoor access for livestock and poultry?

The final rule requires that producers provide animals with daily access to the outdoors and that outdoor areas include vegetation and/or soil. Additionally, exit doors must be distributed to ensure animals have ready access to the outdoors.

What are the indoor and outdoor stocking density requirements for organic poultry operations?

The indoor stocking densities for layers allow a maximum of 3.0 – 4.5 pounds of bird per square foot of indoor space depending on the housing type. The levels are consistent with standards established by third-party animal welfare certification programs (such as Certified Humane and American Humane Certified) and their scientific committees.

Outdoor space for poultry is a maximum of 2.25 pounds of bird per square foot for layers; 5.0 pounds of bird per square foot for broilers. The outdoor areas will need to have at least 50 percent vegetated soil areas.

Why do the indoor poultry space requirements differ from the NOSB recommendations?

The NOSB recommended that each laying chicken be provided with two square feet per bird indoors. The NOSB recommendation did not differentiate space requirements for various types of housing or production systems. In the final rule, AMS requires indoor space ranging from about one square foot per laying chicken to two square feet per laying chicken, depending on housing type. AMS chose this option to align with standard industry practice and third-party animal welfare certification programs.

How do the space requirements in this rule compare with organic standards in Canada and the European Union?

Similar to organic standards in Canada and the European Union, this rule sets maximum stocking densities (i.e., minimum space requirements) for organic birds. These requirements apply both indoors and outdoors. One difference between the standards is the AMS space requirements are adjusted for different types of housing (aviary vs. floor, for example), whereas the Canada and European Union standards set a single indoor stocking rate for all types of fixed housing.



How does this compare to other standards (private animal welfare standards)?

The rule aligns with various third-party animal welfare standards on a range of topics. The rule does not adopt any single private animal welfare standard, but several of these standards were reviewed closely by AMS and by the NOSB, and they informed the requirements for these organic standards.

Is a porch or winter garden considered “outdoors”?

An **enclosed** “porch” or “winter garden” cannot be considered part of the outdoors in the final rule. However, a solid roof may be provided in the outdoor area to provide shade or protection from predators, for example. To be counted as outdoor space, a roofed area must allow birds to move freely to the rest of the outdoor space. The final rule ensures that birds are provided with access to the outdoors.

With so many birds on the soil, will that cause environmental problems from too much manure?

Organic poultry producers must manage manure to ensure that soil and water quality are protected. Under the organic requirements and other applicable requirements (e.g., Clean Water Act requirements), organic producers need to implement practices, including manure management practices, to ensure land and water quality are protected. To mitigate impacts, the final rule requires that the outdoor space be vegetated to the maximum extent possible and permits temporary confinement of birds to reseed outdoor areas.