



ORGANIC FARMERS ASSOCIATION

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January 11, 2017

Paul Lewis, Ph.D.,
Director, Standards Division,
National Organic Program, USDA–AMS–NOP,
1400 Independence Ave. SW,
Room 2642– So., Ag Stop 0268,
Washington, DC 20250–0268.

Docket number AMS– NOP–15–0012; NOP–15–06

Dear Dr. Lewis:

The Organic Farmers Association (OFA) appreciates the opportunity to provide USDA with our comments regarding your proposal to withdraw the Organic Livestock and Poultry Practices (OLPP) Rule. We and our certified organic farmer members strongly **encourage the USDA to allow the Organic Livestock and Poultry Practices (OLPP) rule to become effective immediately.**

OFA represents certified organic farmers. It is the only trade association where certified organic producers develop and work to implement policy. Our mission is to provide a strong and unified national voice for domestic certified organic producers.

OFA's Steering Committee members have deep ties to the beginnings of the organic market and label. As a result, we have spent countless hours working with your staff and volunteering to help the National Organic Standard Board (NOSB) accomplish their mission. Eight of OFA's leaders are former or current NOSB members. OFA utilizes the experience of former and current NOSB members to grow the organic industry and maintain its high integrity.

Our Steering Committee would like to remind USDA that the NOSB has had numerous conversations since adoption of the Organic Foods Production Act (OFPA) about the balance between "the goal of restricting livestock medications and the need to provide humane conditions for livestock rearing" as stated in the Food, Agriculture, Conservation and Trade Act of 1990 Committee report.¹ In this report, Congress wrote, "The Board shall recommend livestock standards, in addition to those specified in this bill, to the Secretary." The intention and stated expectation of Congress was that with additional research and as more producers enter organic livestock production, the Committee expected USDA, with the assistance of the NOSB, to establish additional livestock standards.

¹ Senate Report 101-357. July 6, 1990. "Report of the Committee on Agriculture, Nutrition, and Forestry, United States Senate, to accompany S. 2830 together with Additional and Minority Views." 101st Congress – 2nd Session P. 289-306.

Congress clearly expected the NOSB to play a significant role in the development of additional regulations, when it stated in the Committee report, “The Committee regards this Board as an essential advisor to the Secretary on all issues concerning this bill and anticipates that many key decisions concerning standards will result from recommendations by this Board.” This is backed up by further language in the Committee report, which states, “With additional research and as more producers enter into organic livestock production, the Committee expects that USDA, with the assistance of the National Organic Standards Board will elaborate on livestock criteria.” The Organic Foods Production Act, section 6509(d)(2), explicitly states, “Standards – The National Organic Standards Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that such livestock is organically produced.”

To OFA members it is clear; Congress told NOSB to further develop organic livestock standards and NOSB worked over the years to develop and submit consensus recommendations to USDA regarding additional livestock standards, as the industry has grown and more producers have entered organic livestock production. The Federal Register notice (82 FR 7042) for the OLPP Final Rule, issued January 19, 2017, contains a detailed list of the actions taken by the NOSB, along with the dates of public meetings, that demonstrate that the NOSB complied with OFPA and the will of Congress in establishing recommendations that resulted in issuance of the OLPP. Likewise, the USDA complied with OFPA and the will of Congress in issuing the OLPP Final Rule. USDA based their proposed rules and final OLPP rule on NOSB recommendations following Notice and Comment rulemaking, as required by OFPA section 6509(g), which states, “Notice and Public Comment – The Secretary shall hold public hearings and shall develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products produced under this section.” OFA members, NOSB, and the organic industry at large understand Congress’s directive to NOSB to recommend additional standards “for the care” of organic livestock, 7 U.S.C. § 6509(d)(2), to include standards for the overall health and welfare of animals, and not merely what drugs are prohibited.

The majority of the OLPP is a clarification of what the organic regulation already states: organic animals must have access to the outdoors and have living conditions that lessen stress and allow for the expression of natural behavior. However, the current organic regulation has been subjectively and inconsistently applied. Therefore, the NOSB, with the overwhelming and demonstrated support of organic farmers, consumers and traders, spearheaded the development of these additional standards to assure that all organic livestock are raised and managed under humane living conditions, as stated in the Congressional report. The OLPP clarifies what is needed for animal health to reduce stress and allow animals to express their natural behavior. The OLPP mandates that organic livestock producers establish and follow sound animal husbandry practices, which promote and support animal health. It levels the playing field for all organic livestock producers, large and small, establishing a consistent national organic standard, which is a primary purpose of the Organic Foods Production Act.

The Small Business Administration defines small agricultural producers as those having annual receipts of no more than \$750,000 (13 CFR part 121). Data from the NASS 2014 Organic Survey show that approximately 91 percent of certified organic producers had 2014 organic sales value of \$750,000 or less and qualify as small agricultural producers. Ninety-one percent of U.S. certified organic farmers are small businesses who already meet the spirit and letter of the organic standards; this great majority of certified organic farmers are being put at an economic disadvantage by a few large livestock businesses who do not meet existing outdoor access requirements, yet are being certified as organic, due to the lack of clarity in the existing regulation. The majority of certified organic producers will not incur

additional costs as a result of OLPP implementation; in fact, the regulation will strengthen the ability for the majority of producers to maintain economic viability.

According to USDA, small (<16,000 birds) and medium (16,000-100,000 birds) organic egg and broiler producers would have “negligible” additional costs as a result of implementing the NOSB’s proposed regulations. Large (>100,000 birds) broiler producers would require only a 2.5 percent increase in price to cover additional costs.² Only a few large (>100,000 birds) organic egg producers, which account for only 1% of total organic egg producers in the U.S., would have significant costs to comply. Most organic egg and broiler producers will not incur increased costs with OLPP. The clarifications contained in the OLPP ensure that all organic livestock producers meet the intended requirements of the NOP standard. Implementation of the OLPP will protect and grow the organic market by assuring organic consumers that all producers, no matter the size, have equal economic opportunity and comply with a consistent set of requirements—animal welfare requirements most consumers already believe are embodied in organic certification.

Consumers expect that the USDA organic label upholds the intended standards for healthy, humane livestock living conditions, but because news exposés have highlighted large operations taking advantage of the lack of clarity in the standards, many organic producers have been forced to incur the extra financial and paperwork burden of an additional animal welfare certifications. Since these are private labels, numerous certifications are sometimes required by different markets. Because the great majority of organic producers are small businesses, they do not have the administrative staff required to manage additional labels; thus, additional certifications are burdensome on farmers—becoming late night paperwork to ensure consumers of animal welfare standards that should be clearly delineated within their organic certification. By clarifying the OFPA intention for humane living conditions and honoring the decades of recommendations on this topic by the NOSB, the USDA will clarify the standards and restore consumer faith in the integrity and rigor of the USDA organic label. The majority of organic poultry farmers have demonstrated their willingness to comply with these regulations because their customers are demanding products from animals being raised in as close to their natural condition as possible.

This OLPP regulation is voluntary—only mandated for those who choose to sell under the USDA organic seal. As a voluntary regulation, requested by the regulated industry, and based on Congressionally mandated recommendations of the NOSB, the OLPP Rule falls outside of scope of 82 FR 9967 and Executive Order 13771, which established a freeze on new regulations.

Everyone using the organic label should follow the same standard to retain consumer confidence in the USDA organic seal and help safeguard the economic opportunity for all certified entities. The lack of clarity of the existing standards puts USDA organic at a competitive disadvantage internationally, where humane animal treatment is strongly supported and incorporated into international organic standards.

Thousands of hours of work went into the development of the OLPP Rule, with the clear majority of all stakeholders, including the organic farmer community, in strong support of the Rule’s implementation,

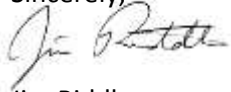
² L. Bunin & P. Tomaselli (2014). USDA Stalls Regulations to Improve Organic Poultry Living Conditions, Washington, D.C.: Center for Food Safety (April), available at: <https://www.centerforfoodsafety.org/issues/306/organic-and-beyond/reports/3103/usda-stalls-regulations-to-improve-organic-poultry-living-conditions-agency-hides-behind-faulty-economic-impact-assessment>

as evidenced by the tens of thousands of supportive comments submitted to USDA in response to 82 FR 21742 and 82 FR 52643. In fact, our 2017 OFA certified organic farmer member survey showed unanimous support for immediate implementation of the OLPP Rule.

Organic farmers have always stood for strong and enforceable standards as the best way to retain confidence in the organic label. The OLPP Rule is a regulation that organic farmers are asking for, and need, to remain viable in a quickly growing market. The National Organic Program is one built on the ethos of continual improvement; the OLPP is an improvement needed by the industry to stay credible and competitive and is an improvement with full support of OFA farmers.

We appreciate USDA's interest and support of the organic community and label. As a new trade association, we look forward to developing a relationship with USDA as we work together to grow the industry. We hope the **USDA strongly reconsiders withdrawal of the OLPP rule and instead works to implement the rule immediately** to restore public trust in the organic label and ensure the viability of organic producers.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Riddle".

Jim Riddle

Chair, Organic Farmers Association Steering Committee