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Comments of Consumer Reports to the U.S. Department of Agriculture on the Proposed Rule for Organic Livestock and Poultry Practices
Docket No. AMS-NOP-15-0012

Consumer Reports[1] welcomes the opportunity to comment on the proposed rule by the U.S. Department of Agriculture (USDA) for organic livestock and poultry practices.

At Consumer Reports, we evaluate and rate food labels to empower consumers with knowledge to make better and more informed decisions when shopping for food. The organic label communicates to consumers that the food was produced on farms that adhere to a comprehensive set of government standards designed to support a system of sustainable agriculture. We believe the integrity of the organic label is worth protecting and where warranted, its standards should be improved.

In the federal organic regulations and in USDA educational materials, organic production is defined as a system that integrates "cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity."[2] The organic standards should assure consumers that organic farms adopt these practices and achieve these goals. Certified organic farms should do more than simply substitute organic-approved inputs for conventional inputs; organic is a different system and a different way of farming, which should include improved living conditions for animals and humane treatment of animals.

We rate the organic label on produce as "highly meaningful," and the organic label on meat, dairy, eggs and processed food as "meaningful." When we evaluate and compare labels found on animal-derived foods, one of the many critical areas we evaluate in the standards is animal welfare. Our survey results show that a vast majority of consumers think that providing better living conditions for farm animals is an important objective (see survey results discussion below). Our rating of the organic label on meat, dairy and eggs as "meaningful" rather than "highly meaningful" is in part because the organic standards

address animal welfare in minimal ways, and also in part because of inconsistency in the interpretation of the current rule's requirements for outdoor access, especially for organic poultry.

The proposed rule creates consistency, sets an appropriately high bar for animal welfare, and meets consumer expectations in many areas, which we support; however, in some areas, the proposed rule would create new inconsistencies and fail to set an appropriately high bar. In these areas, discussed in detail in this comment, we believe that the USDA can and should aim for more meaningful standards.

Consumer Reports Survey Data: What Consumers Expect

The USDA notes that consumers expect organic animals to go outdoors, citing our 2014 consumer survey. We conducted a similar survey in 2015, showing similar results.

According to our 2015 survey results, 57% of consumers think that the organic label currently means adequate living space requirements for animals were met, and 73% think it **should** mean this.

The organic standards state that "continuous total confinement of any animal indoors is prohibited," but certain large-scale producers meet this requirement with small, covered, entirely enclosed, concrete porches that few would think of as "outdoors." So it is not surprising that only slightly more than half of consumers (54%) think that the organic label means animals went outdoors, while nearly half (46%) think that the organic label does not mean animals went outdoors. This almost even split in responses shows the confusion in the marketplace as a result of the inconsistency in the standards and the lack of enforcement of the existing requirements for labeling foods as organic.

And while slightly more than half of consumers think the organic label currently means animals went outdoors, over two-thirds think the organic label **should** mean the animals went outdoors (68%).[3]

Setting an Appropriately High Bar

In our 2015 consumer survey, we also asked consumers about the importance of certain objectives when shopping for food. Results show that "providing better living conditions for animals" is an important objective when shopping for food for 88% of consumers.[4]

The organic label already provides a meaningful way for consumers to find foods that meet other important objectives, such as "protecting the environment from chemicals" (93% of consumers consider this an important objective), "reducing pesticide exposure" (93%) and "avoiding GMOs" (80%). Currently, it is unclear to consumers whether the organic label means better living conditions for animals were provided. The organic label can and should provide a way for consumers to find foods produced on farms that provided better living conditions for animals.

In this comment, we also offer a comparison with other animal welfare labels found in the marketplace that we have evaluated and rated, as well as the European Union's organic standards. This comparison shows where the proposed rule would set an appropriately high bar for animal welfare standards and where it falls short.

Outdoor access for poultry

One of the most important aspects of the proposed rule is required outdoor access for poultry. The ability of farm animals to engage in natural behaviors is critical to their welfare. For laying hens, natural behaviors include foraging ("scratching-and-pecking"), walking, stretching wings, flapping wings, perching and dustbathing.

The USDA has, in our view, not adequately enforced the current rule's prohibition on "continuous total confinement of any animal indoors" under §205.239(a)(1) and the requirement for providing "living conditions that accommodate the health and natural behavior of animals, including year-round access for all animals to the outdoors" under §205.239(a)(1). The current rule also requires the "provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species" under §205.238(a)(4).

We strongly support the proposal to define the "outdoors" for poultry and prohibit the use of porches to meet outdoor space requirements as an important clarification to the current rule's requirements, and we urge the USDA to implement this proposal expeditiously.

On the other hand, we are concerned that the proposed rule's minimum outdoor space requirement for chickens could be a step backward rather than an improvement to the organic standards. The proposed minimum outdoor space requirement -- no more than 2.25 pounds of chicken per ft^2 for laying hens and 5 pounds of bird per ft^2 for turkeys and broilers -- is too little to allow birds to engage in even the most basic natural behaviors, like stretching wings or taking a step forward without touching another chicken. The USDA's proposed rule could create a new inconsistency: the standards currently require conditions that grant freedom of movement and allow animals to engage in their natural behaviors, but the proposed space requirement would not allow them to do so. We urge the USDA to require *at least* 5 ft^2 per chicken for laying hens and at least 2 ft^2 per chicken for broilers and require at least 50% vegetation in the outdoor space.

We are aware of efforts to block the rule by large-scale egg producers that currently hold organic certification -- despite admitting they do not provide outdoor access to their animals and therefore do not meet this requirement even under the current organic standards. We urge the USDA to consider that the organic standards are voluntary, and have always required "freedom of movement," "access to the outdoors," and conditions that "accommodate the health and natural behaviors of animals." These producers are currently charging a higher price for their eggs, which carry the USDA organic label, without meeting consumer expectations for their products. A change in the standards to

prohibit porches as "outdoor access" will improve the information available to consumers, as producers will be required to sell their products with a label that accurately reflects their production practices and therefore no longer misleads consumers.

Detailed comments on the proposed rule

Changes to Definitions - §205.2

"Outdoors"

We strongly support the proposal to define the "outdoors," since the lack of a definition currently leads to inconsistency in how certified producers meet the requirement for access to the outdoors. This definition of the "outdoors" will ensure that covered porches with concrete or other non-soil flooring will no longer be considered "outdoors."

Changes to Livestock Health Care Practice Standard - §205.238

Physical alterations - §205.238(a)(5)

We are concerned that the proposed language in §205.238(a)(5) to allow physical alterations "to benefit the welfare or hygiene of the animals" may conflict with specific prohibitions in §205.238(a)(5)(i) and (ii), and may create new inconsistencies in the rule.

Specifically, any of the prohibited physical alterations in §205.238(a)(5)(ii) could be considered necessary for the welfare or hygiene of the animals if management practices and living conditions fail to meet their welfare and hygiene needs. In these cases, the welfare and hygiene of the animals could be improved without physical alterations and with improved living conditions and farm management practices. For example, beak trimming could be considered a necessary procedure for protecting birds from feather pecking, when the underlying causes of aggressive feather pecking behaviors can be addressed by granting more space to the birds and allowing them to engage in their natural foraging behaviors ("scratching-and-pecking"). Allowing physical alterations for the "welfare" or "hygiene" of animals opens a potential loophole for producers who are not meeting the animals' welfare and hygiene needs.

We urge the USDA to strike the first line in §205.238(a)(5) and instead specify which physical alterations are permitted on organic farms and specify which physical alterations are prohibited. Specifically, dehorning and disbudding to assure the safety of people and cattle, and tattooing and ear tagging for identification purposes, are physical alterations that should be listed as allowed, with a requirement for proper pain relief.

We also urge the USDA to clarify in §205.238(a)(5)(ii) that these practices "are prohibited," rather than state that these practices "must not be performed on a certified operation." Stating that these practices must not be performed on a certified operation raises the question of whether they would be allowed elsewhere while the animals are still under organic management. Specifying these practices "are prohibited" eliminates this

uncertainty and clarifies the rule. In addition, ear notching in pigs should be added to the list of prohibited physical alterations.

Tail docking for pigs - §205.238(a)(5)(i)

Tail docking for pigs is a band-aid solution to a systemic problem that arises from close confinement and the inability to engage in natural rooting and foraging behaviors.[5] Tail biting and the increased aggression that accompanies it are among the major causes of poor welfare in pigs.[6]

Not only is tail docking likely a painful procedure for the animals (and may lead to long-term pain),[7] tail docking does not address *why* the animals are hurting one another. A farm that requires tail docking is most likely failing to meet the requirements in the organic standards to provide conditions that allow animals to exercise, have freedom of movement, and engage in their natural behaviors.

We support the proposed rule's prohibition on routine tail docking. However, we urge the USDA to address more specifically the alternative methods that farms that encounter problems with tail biting must address. Since tail biting could be a sign that pigs are confined too closely and are unable to engage in natural behaviors, it should be specified that farms with tail biting problems must reduce their stocking density and provide more opportunities for engaging in rooting behaviors before tails can be docked.

Label / Standards	**Tail docking**
USDA Organic - Proposed rule	Tail docking may not be routinely used and must be used only with documentation that alternative methods to prevent harm failed.
Demeter Biodynamic	Prohibited
Animal Welfare Approved	Prohibited
Certified Humane	Tail docking must not be carried out routinely. Other measures must be taken to prevent tail biting, such as enrichment and reducing stocking densities. Tail docking is not permitted without prior approval by HFAC.
GAP Step 5+	Prohibited
GAP Step 5	Prohibited
GAP Step 4	Prohibited
GAP Step 3	Prohibited
GAP Step 2	Prohibited
GAP Step 1	Prohibited
American Humane Association	Allowed

Beak trimming for laying hens - §205.238(a)(5)(ii)

Beak trimming for laying hens, like tail docking for pigs, is a band-aid solution to prevent aggression when animals are confined too closely and are not able to engage in natural behaviors.[8]

Feather pecking can be prevented by addressing the roots of the problem: by providing space for birds to escape flock mates, adequate and vegetated outdoor space to allow freedom of movement and the ability to engage in natural scratching-and-pecking behaviors as they forage.[9]

To address feather pecking by beak trimming may minimize the damage and prevent serious injuries or death, but it does not prevent the aggression, inability to escape flock mates, stress and boredom that are the root causes.

Beak trimming should not be needed in a system that truly promotes animal welfare. In a system of poultry farming that promotes animal welfare, beak trimming should be prohibited. We do not support the USDA's proposal to allow routine beak trimming of laying hens.

However, while we do not support routine beak trimming, we recognize that under the proposed minimum outdoor space requirement of 2.25 pounds of chicken per ft^2 or under the current system (where a requirement to provide conditions that accommodate the natural behavior of chickens is not enforced), beak trimming would likely continue to be a necessary practice to prevent suffering from injuries and possible death from feather pecking on some organic poultry operations. If the USDA implements the proposed outdoor space requirement and allows producers to grant no more than approximately 2 ft^2 per laying hen, routine beak trimming would unfortunately be necessary.

Labels that set a high standard for animal welfare prohibit this practice. We believe routine beak trimming should be prohibited on organic farms, and a prohibition on beak trimming should be accompanied by a meaningful outdoor and indoor space requirement. We urge the USDA to move "beak trimming after 10 days of age" from §205.238(a)(5)(ii) to §205.238(a)(5)(i), which would prohibit this practice on a routine basis, **but only if the USDA also implements our recommended change to the outdoor space requirements, of at least 5 ft^2 per laying hen.**

Label / Standards for laying hens	**Beak trimming for laying hens**
USDA Organic - Proposed rule	Allowed - if performed prior to day 10
European Union organic standards	Routine beak trimming is prohibited.
Demeter Biodynamic	Prohibited
Animal Welfare Approved	Prohibited
Certified Humane	Allowed - only in flocks that are susceptible to cannibalism and when performed prior to day 10
American Humane Association	Allowed - only as a preventive measure to mitigate the risks of injurious feather-pecking and cannibalism if beaks are left

	intact. It should be performed within the first 24 hours of life, or when this is not possible, prior to day 10

Ammonia levels - §205.238(a)(9)

We support ammonia limits, as high ammonia levels can irritate lungs and eyes of birds and mammals, and can contribute to the development of respiratory diseases such as pneumonia and pleuritis and eye lesions.[10] [11] [12] High levels of ammonia have also been shown to cause increased susceptibility to disease, as one study found increased susceptibility in poultry to Newcastle disease at concentrations of 20 ppm.[13]

Research also suggests that chickens and pigs experience high levels of ammonia as aversive, and seek to escape it when given the opportunity to do so (one study found hens sought to escape from ammonia concentrations of 20 ppm).[14] [15]

Section 205.238(a)(9) sets limits for ammonia levels and specifies that this applies only to poultry houses. We support adding ammonia limits to the rule, and we urge the USDA to delete "in poultry houses" so that the limit will apply to indoor livestock houses as well.

In terms of the limits that the USDA proposes, we believe 25 ppm is too high. Even at 25 ppm, in one study birds developed ocular abnormalities. This study also indicated that ocular abnormalities cleared rapidly after exposure to ammonia ceases.[16] Another study showed significant effects on the respiratory systems of chickens at concentrations of 25 ppm. In a cross-sectional epidemiologic study associating air quality with pig health on 28 farms in Sweden, the author recommended a maximum concentration for ammonia of 7 ppm.[17]

The USDA should delete the line "ammonia levels must be less than 25 ppm," and the regulations should focus on 10 ppm as the upper acceptable limit.

We support the proposal to require monthly monitoring and implement measures to reduce ammonia concentrations when they are found to be higher than 10 ppm.

Label / Standards for laying hens and broilers	**Max. limits for ammonia for laying hens and broilers**
USDA Organic - Proposed rule	10 ppm/25 ppm - when ammonia levels exceed 10 ppm, an operation must implement additional practices to reduce ammonia levels below 10 ppm. Ammonia levels must be less than 25 ppm. Producers must monitor ammonia on a monthly basis.

European Union organic standard	No limit for ammonia levels. Standards state: "Insulation, heating and ventilation of the building shall ensure that air circulation, dust level, temperature, relative air humidity and gas concentration, are kept within limits which are not harmful to the animals. The building shall permit plentiful natural ventilation and light to enter."
Demeter Biodynamic	No maximum level set. Standards state: livestock "must be protected from harmful gasses such as ammonia."
Animal Welfare Approved	Approx. 5 ppm. Action must be taken when ammonia can be detected by smell by a human. Standards state that the human nose can detect ammonia at 5 ppm.
Certified Humane	25 ppm - Standards require testing every two weeks. Ammonia concentration at bird height should be less than 10 ppm (recommendation) and must be less than 25 ppm (requirement), except during brief periods of inclement weather when ventilation is affected.
American Humane Association	25 ppm - Standards state that ammonia levels should ideally be less than 10 ppm (recommendation) but must not exceed 25 ppm (requirement). If any monthly ammonia test results in excess of 25 ppm, records must show that a program of ammonia mitigation was adopted.
GAP Step 1-5+	If air quality levels exceed 20 ppm for ammonia (if assessed with meters or strips) or score "2" or higher, an intervention plan designed to improve air quality must be implemented immediately. Score "2" is: "Moderate: ammonia and dust distinct; experience watery eyes and/or coughing"

Label / Standards for pigs	**Indoor air quality for pigs**
USDA Organic - Proposed rule	Limits for ammonia levels would apply only to poultry houses
Demeter Biodynamic	Standards do not set limits for ammonia but require that animals be raised with access to the outdoors, and standards also require

	protecting livestock from harmful gasses such as ammonia
Animal Welfare Approved	Approx. 5 ppm. Action must be taken when ammonia can be detected by smell by a human. Standards state that the human nose can detect ammonia at 5 ppm.
Certified Humane	25 ppm - Standards require testing every two weeks. Ammonia concentration should be less than 10 ppm (recommendation) and must be less than 25 ppm (requirement), except during brief periods of inclement weather when ventilation is affected.
GAP Step 5+	Pigs are on pasture continuously so indoor air quality standards do not apply
GAP Step 5	Pigs are on pasture continuously so indoor air quality standards do not apply
GAP Step 1-4	If air quality levels exceed 20 ppm for ammonia (if assessed with meters or strips) or score "2" or higher, an intervention plan designed to improve air quality must be implemented immediately. Score "2" is: "Moderate: ammonia and dust distinct; experience watery eyes and/or coughing"
American Humane Association	25 ppm - Standards state that ammonia levels should ideally be less than 10 ppm (recommendation) but must not exceed 25 ppm (requirement). If any monthly ammonia test results in excess of 25 ppm, records must show that a program of ammonia mitigation was adopted.

Pain relief to alleviate pain and suffering - §205.238(b)(3) and (c)(2)

We support the proposed language in §205.238(b)(3). We believe that synthetic medications, provided they are allowed under in §205.603, should be allowed to alleviate pain and suffering, and should be required during certain procedures such as dehorning and disbudding.

The proposed language in §205.238(c)(2) needs to be clarified. It could be misread to prohibit producers from administering any animal drug "to alleviate pain and suffering," which would lead to unnecessary pain and suffering of organic animals if producers believe medical treatment must be withheld in order to preserve organic status. We believe the opposite is intended, that alleviating pain and suffering is intended to be a permitted exception to the prohibition.

Growth hormones - §205.238(c)(3)

We support the proposal to prohibit hormones for production and reproduction as well as for growth promotion.

Treating injured, diseased or sick animals - §205.238(c)(7) and (8)

USDA proposes no change to §205.238(c)(7) and the addition of §205.238(c)(8), both dealing with the mandatory medical treatment of sick or injured animals. Rather than keep §205.238(c)(7) unchanged and add §205.238(c)(8), which appears to create duplication or overlap, we propose adding language from proposed §205.238(c)(8) to §205.238(c)(7) to capture its intent. Specifically, we support the additional language that clarifies the importance of medical treatment for minimizing pain and suffering for injured, diseased and sick animals, and we support the inclusion of appropriate forms of euthanasia as appropriate treatment. We suggest that §205.238(c)(7) be amended to read:

> Withhold medical treatment designed to minimize pain and suffering and restore health to injured, diseased, or sick animals in an effort to preserve its organic status. All appropriate medications, approved or unapproved, must be used to restore an animal to health when methods acceptable to organic production fail. Such treatment may include euthanasia as detailed in the producer's written plan for prompt, humane euthanasia. This plan may include forms of euthanasia as recommended by the American Veterinary Medical Association.

We believe it is important to specify that unapproved medications are also appropriate to restore an animal to health, and must be used when appropriate. Animals should not suffer because medical treatment is withheld due to the unapproved status of appropriate medications.

We urge the USDA to add a requirement for a sick pen in poultry housing. This will help ensure that producers are able to properly care for birds that need to be removed from the flock to recover from injuries, including feather-pecking related injuries.

Forced molting - §205.238(c)(10)

We support the proposed prohibition on forced molting. Birds on organic farms should be allowed to molt naturally. This is especially important since studies have found that forced molting depresses the immune system of hens and leads to higher excretion of *Salmonella enteritidis*.[18] The proposed prohibition on forced molting is therefore important to food safety as well as animal welfare.

Preventing internal parasite problems - §205.238(d)

We support a requirement in the organic regulations for management practices that minimize internal parasite problems in livestock. However, this is already a requirement in the organic standards: §205.238(a)(3) requires that producers "establish and maintain preventive livestock health care practices, including establishment of housing, pasture

conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites." The proposal to add similar language in §205.238(d) is redundant and not necessary. To ensure the rule captures the intent of the proposed added language, the USDA could add the language covering "fecal monitoring and emergency measures in the event of a parasite outbreak" to the existing requirements in §205.238(a)(3).

Euthanasia - §205.238(c)(8) and (e)(1), (e)(2) and (e)(3)

We support standards for humane euthanasia, and urge the USDA to strengthen this requirement. In the proposed rule, the USDA would require organic livestock producers to have "written plans for prompt, humane euthanasia for sick or injured livestock" (§205.238(e)(1)). First, we suggest changing "for sick or injured livestock" to "for animals suffering from irreversible disease or injury," which is the language used in the National Dairy Farm Program Animal Care Manual and is appropriate for other species of livestock as well. As noted in §205.238(c)(7), organic producers must medically treat their sick and injured animals. Only when an injury or disease is irreversible should the animal be humanely euthanized.

The proposed rule would prohibit three methods of euthanasia under §205.238(e)(2), and would also require an examination of livestock to ensure that they are dead after euthanasia under §205.238(e)(3). We are concerned that a written plan is only as meaningful as its contents, and other than the three prohibited methods and the requirement for examination, the USDA is not proposing any other requirements to be included in the plan. Requiring a written plan without specifying in detail what should be in the written plan opens the door for wide and varying interpretations of acceptable methods of euthanasia. If the goal is to create consistency in the standards and enforcement, this section needs more specificity.

Only three methods of euthanasia are prohibited in the proposed rule. However, the 2013 edition of the American Veterinary Medical Association (AVMA) Guidelines for the Euthanasia of Animals lists more unacceptable methods for cattle and small ruminants. Included as unacceptable methods: "manually applied blunt trauma to the head; injection of chemical agents into conscious animals (e.g., disinfectants, electrolytes such as potassium chloride and magnesium sulfate, nonanesthetic pharmaceutical agents); administration of xylazine or any other α_2 adrenergic receptor agonist followed by IV potassium chloride or magnesium sulfate (although large doses of α_2 adrenergic receptor agonists can produce a state resembling general anesthesia, they are recognized as being unreliable for that purpose), drowning, or air embolism (i.e., injection of air into the vasculature); and electrocution with a 120-V electrical cord, drowning, and exsanguination in conscious animals."

For "manually applied blunt force trauma," which is an acceptable method with conditions only for suckling pigs and poultry, the AVMA guidelines state that "uncertainty of success often causes repeated application or selection of an alternative euthanasia method" and that those using this method should "actively search for alternatives to ensure that criteria for euthanasia can be consistently met." We therefore urge the USDA to

change the prohibition on "blow to the head by blunt instrument" to "manually applied blunt force trauma" to ensure all methods of blunt force trauma are covered.

For pigs and poultry, the AVMA guidelines do not list unacceptable methods, but do list "adjunctive methods" for pigs and poultry that are "not appropriate as a sole method of euthanasia," but "may be performed as a secondary step to ensure death when necessary." These methods include exsanguination and pithing for mature pigs, and potassium chloride or magnesium sulfate and exsanguination for poultry. We believe that the USDA should ensure that all unacceptable methods are included.

Mammalian living conditions - §205.239

We generally support the changes to §205.239. Below, we comment on the areas where we believe the rule should be strengthened to ensure the organic label meets consumer expectations, and areas where we believe changes are needed ensure the rule is consistent and appropriate for each type of livestock.

Appropriate clean, dry bedding - §205.239(a)(3)

The USDA proposes to add language in §205.239(a)(3) requiring that "animals must be kept clean during all stages of life with the use of appropriate, clean, dry bedding, as appropriate for the species." Since there are instances when keeping animals clean while they are outdoors may be unnecessary and difficult, we do not think that this change is necessary. For example, a dairy cow on fresh pasture may have liquid manure that is spread to her back by her swinging tail, and a pig on pasture may wallow in mud. These behaviors are natural, and keeping animals "clean" in these cases would not necessarily contribute to their overall health or to good hygiene on the farm. We believe it is more important to ensure that the animals are always provided with fresh, clean bedding, rather than to ensure the animals themselves are always clean.

We do not think the change in §205.239(a)(3) is necessary since §205.239(a)(4)(iv) proposes to require areas for bedding that keeps animals clean, dry and free of lesions. Therefore, we do not support the changes to the first sentence in §205.239(a)(3), while we do support the changes in §205.239(a)(4)(iv).

Shelter and sufficient space to lie down - §205.239(a)(4)(i)

The USDA proposes to require shelter for mammals that is designed to allow for "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." This requirement is appropriate for pigs but not for dairy cattle and beef cattle. The proposed language in §205.239(a)(4)(i) would mean a prohibition on current common systems in organic dairy production such as tie stalls and free stall barns.

We suggest that the USDA clarify that the existing requirement in §205.239(a)(4)(i) remain in place for ruminants by adding a clarification, and that the

words "for pigs," be added to the proposed requirement.

Areas for bedding and resting - §205.239(a)(4)(iv)

We support this added requirement for areas for bedding and resting.

Cleaning and disinfecting - §205.239(a)(6)

We support §205.239(a)(6) and the requirement for cleaning and disinfecting as needed in the mammalian livestock living conditions section. We suggest a similar requirement be added in the avian living conditions section.

Group housing for swine and prohibiting crates - §205.239(a)(8)

We support the proposed requirement for group housing of pigs in §205.239(a)(8), and we support the proposed exceptions. Since the USDA is proposing to allow individual housing for a farrowing sow and for a lactating sow with her piglets, we urge the USDA to add specific requirements for these animals. Specifically, an explicit prohibition on farrowing crates should be added.

Confining sows in farrowing crates is a major animal welfare concern and consumers are increasingly aware of this practice, which is still common in pig farming. The current organic standards require "freedom of movement" (205.238(a)(4)) but the proposed rule would allow for "confined housing with stalls" under §205.239(a)(12) and states that "a cage must not be called a stall" under §205.239(a)(12). This is vague language which remains open to interpretation, and we urge the USDA to specify a minimum space requirement for farrowing sows and lactating sows with piglets. Space requirements should ensure that crates such as "turn-around" crates are not allowed and that sows always have freedom of movement that includes the ability to take steps, rather than simply the "freedom of movement" to turn around.

Label / Standards	**Farrowing crates**
USDA Organic - Proposed rule	The proposed animal welfare rule would require: shelter must be designed to allow for sufficient space and freedom to lie down, turn around, stand up, fully stretch their limbs without touching other animals. Pigs could be housed individually at farrowing and during the suckling period. [§205.239(a)(8)(i)]
Demeter Biodynamic	Housing must allow animals to move freely.
Animal Welfare Approved	Prohibited
Certified Humane	Farrowing pens must be at least 6 ft by 8 ft and allow the sow to turn around.
GAP Step 5+	Prohibited
GAP Step 5	Prohibited

GAP Step 4	Prohibited
GAP Step 3	Prohibited
GAP Step 2	Prohibited
GAP Step 1	Prohibited
American Humane Association	Permitted

Note: Proposed §205.239(a)(9) is missing from the fourth column table on page 21967 of the Federal Register Notice; the proposed standards in this table skip from §205.239(a)(8)) to §205.239(a)(10). As a result, the section on exercise areas is sometimes referred to as §205.239(a)(10), as on page 22007 of the Federal Register Notice, and sometimes as §205.239(a)(11), as on page 21967 of the Federal Register Notice.

Exercise areas - §205.239(a)(11)

Studies have shown that the risk factors for tail biting in group-housed pigs include the absence of straw and other materials that allow pigs to engage in foraging behaviors.[19] Sufficient exercise is important to prevent health problems, "for normal bone and muscle development."[20] We support the proposed requirement that "Exercise areas for swine, whether indoors or outdoors, must permit rooting, including during temporary confinement events," under §205.239(a)(11) and urge the USDA to add language requiring deeply bedded straw in the rooting areas.

As noted above, we urge the USDA to add language to clarify that gestating, farrowing and lactating sows must also always have access to exercise areas that permit rooting.

We recommend that §205.239(a)(11) should state: "Exercise areas for swine, whether indoors or outdoors, must permit rooting by providing deeply bedded straw or other materials for rooting, including during temporary confinement events."

Outdoor area conditions §205.239(a)(12)
Note: this is referred to as §205.239(a)(13) on page 21967 of the Federal Register Notice.

We support the changes to §205.239(a)(12), to require "at least 50 percent of outdoor space must be soil," for pigs and for all animals during the growing season, but note that this requirement may not be appropriate for dairy cattle and beef cattle given the current allowance in the organic standards for removing cattle from pasture during the non-growing season. We urge the USDA to take into consideration comments from the National Organic Coalition on this issue.

Avian Living Conditions (§205.241)

We generally support the proposed standards for avian living conditions and, particularly on these standards, urge the USDA to move to a final rule. We offer comments on areas of the proposed rule where we believe changes are needed for clarification,

consistency and/or to meet consumer expectations for high animal welfare on organic farms.

Accommodating health and natural behavior of chickens - §205.241(a)

We support the proposed language in §205.241(a), which is similar to what is currently required in terms of providing living conditions that accommodate the health and natural behaviors of poultry, and has important additions. We support the addition of "materials for dust bathing" and "adequate outdoor space to escape from predators and aggressive behaviors."

We urge the USDA to add another basic natural behavior to the list: foraging, which is high-priority behavior for laying hens.[21] When given the opportunity, foraging will take up a major proportion of a laying hen's active time.[22] There are many health and welfare benefits when laying hens have the ability to forage outdoors. Notably, many studies have found a lower prevalence of feather pecking when hens are able to engage in natural foraging behaviors outdoors.[23] Specifically, we recommend that USDA add "vegetated foraging areas during the growing season," to the list.

Studies have shown that laying hens are more likely to use the outdoor area if overhead cover is provided,[24] so we also urge the USDA to add "overhead cover for protection from predators" to the list.

We support the requirement for materials for dustbathing in §205.241(a), and encourage the USDA to specify whether this would also be a requirement for broilers in pasture-based pens.

Indoor space requirements - §205.241(b)(1), (7), (8), (9) and (11)

Indoor space requirements are closely tied to outdoor space requirements in terms of whether overall living conditions provide a high welfare environment for birds. When chickens and other avian species have adequate outdoor space and conditions that allow them to engage in natural behaviors and freedom of movement, indoor space is less important because it is used primarily for sleeping or resting. However, if outdoor space requirements or other conditions do not permit all birds to be outdoors and engage in natural behaviors, then birds are essentially confined indoors and will attempt to engage in their natural behaviors indoors. In these instances, providing sufficient indoor space and indoor enrichment is important.

We support §205.241(b)(1), "all birds must be able to move freely, and engage in natural behaviors" and §205.241(b)(11), "poultry housing must be sufficiently spacious to allow all birds to move freely, stretch their wings, and engage in natural behaviors."

We support the indoor space requirements in §205.241(b)(7), (8) and (9) but urge the USDA to increase the outdoor space requirements and strengthen the requirements for outdoor access to ensure chickens can engage in their natural behaviors outdoors.

Label / Standards for laying hens	Min. indoor space requirement for laying hens
USDA Organic - Proposed rule	No more than 2.25 pounds of hen/ft^2 to no more than 4.5 pounds of hen/ft^2, depending on housing system.
European Union organic standard	1.78 ft^2/hen (6 laying hens/m^2)
Demeter Biodynamic	1.35 ft^2/hen when pop-holes to the outdoor area are automated. Hens have at least 43 ft^2 of outdoor space.
Animal Welfare Approved	1.8 ft^2/hen with an additional 4 ft^2/hen foraging area when hens are excluded from the outdoors due to inclement weather.
Certified Humane	Ranges from 1.0 to 1.5 ft^2/hen depending on housing system and layer breed.
American Humane Association	Ranges from 1.0 to 1.5 ft^2/hen depending on housing system and layer breed.

Label / Standards for broilers	Min. indoor space requirement for broilers
USDA Organic - Proposed rule	5 pounds per ft^2
European Union organic standard	0.67 ft^2 per bird in mobile housing to 1.07 ft2 per bird in fixed housing[25]
Demeter Biodynamic	5 pounds per ft^2 plus a "poultry yard" when birds are excluded from pasture
Animal Welfare Approved	0.67 ft^2 per chicken plus 2.0 ft^2 foraging area when birds are excluded from pasture
Certified Humane	6 pounds per ft^2
GAP Step 5+	5 pounds per ft^2
GAP Step 5	5 pounds per ft^2
GAP Step 4	5.5 pounds per ft^2
GAP Step 3	6 pounds per ft^2
GAP Step 2	6.5 pounds per ft^2
GAP Step 1	7 pounds per ft^2
American Humane Association	7 pounds per ft^2

Indoor air quality and ammonia - §205.241(b)(2)

We support setting limits for ammonia and as noted in detail above in our comments on §205.238(a)(9), we urge the USDA to apply a limit for all livestock and to reduce the limit from 25 ppm to 10 ppm.

Maximum hours of artificial light - §205.241(b)(3)

We support the proposed standard for maximum hours of artificial light under §205.241(b)(3), which is in line with the label standards that we rate as "highly

meaningful." However, it should not only apply to laying hens, as is currently proposed, but to all birds, including broilers and turkeys.

One way to promote rapid growth in poultry is by keeping the lights in the chicken houses on continuously or near-continuously, and to keep the lights dim.[26] Such lighting programs contribute to incidences of disease attributed to fast growth, such as ascites associated with pulmonary hypertension syndrome, sudden death syndrome, tibial dyschondropasia and other skeletal disorders.[27] Continuous or near-continuous illumination and dim lighting in a chicken house are also associated with other health problems in the birds, including immunosuppression,[28] eye problems[29] and leg disorders.[30]

Other labels have standards for maximum hours of artificial illumination for broilers as well as for laying hens. Research has shown potential welfare benefits to providing longer periods of darkness, including lower physiological stress, increased overall activity, and improvement in bone metabolism and leg health in broiler chickens.[31] We urge the USDA to eliminate "For layers and mature birds" in proposed §205.241(b)(3) to clarify this requirement applies to all poultry and at all stages of life.

In addition to length of light, light intensity is also important. We urge the USDA to add a prohibition against continuous dim lighting by setting a minimum illumination in poultry houses when lights are on (such as 20 lux, which is the requirement for Humane Farm Animal Care's Certified Humane label), while also allowing for a gradual dimming of light.

Label / Standards	**Max. hours of artificial light**
USDA Organic - Proposed rule	16 hours for laying hens; limit does not apply to broilers at all stages of life
European Union organic standards	16 hours (applies to all poultry)
Demeter Biodynamic	16 hours
Animal Welfare Approved	16 hours
Certified Humane	18 hours
GAP Step 5+	16 hours
GAP Step 5	16 hours
GAP Step 4	16 hours
GAP Step 3	16 hours
GAP Step 2	18 hours
GAP Step 1	18 hours
American Humane Association	18 hours

Perches - §205.241(b)(6)

We support the proposed standard for a minimum of 6 inches of perch space under §205.241(b)(6). It is unclear in the language of proposed §205.241(b)(6) which types of birds should be given perches, as the proposed rule states: "facilities for species which do not perch do not need to be contain (sic) perch and roost space." Since broilers are the

same species as laying hens, presumably this means that perches would also be required for broilers. We urge the USDA to clarify this.

European organic standards require perches only for laying hens and guinea fowl, and perches are generally not required for broilers by other animal welfare standards. Some studies have identified welfare benefits to perches while other have found the potential for negative health effects from providing perches to broilers,[32] while others suggest that young birds would benefit from being provided perches.[33] It is unclear whether broilers benefit from perches. Some studies have also shown that broiler birds do not generally use perches: several studies have found that only around 2% of the birds will use perches when they are provided.[34]

Rather than require perches for broilers, we recommend that the standards require indoor environmental enrichment for broilers when they are temporarily confined indoors. Research suggests that enrichment should not be limited to perches but could include straw bales, string, deep litter and dust baths.

Label / Standards	**Min. perch space per bird**
USDA Organic - Proposed rule	6 inches. Unclear whether this applies to broilers and turkeys.
European Union organic standard	7 inches (18 cm) for laying hens and 7.9 inches (20 cm) for guinea fowl. No perches required for other types of poultry.
Demeter Biodynamic	no minimum (perches are required for "poultry that normally perches")
Animal Welfare Approved	7 inches for laying hens and breeder birds. Broilers must be provided items that allow the birds to get off the floor, but perches specifically are not required.
Certified Humane	6 inches for laying hens. Perches for broilers are recommended as indoor environmental enrichment, but not required.
American Humane Association	6 inches for laying hens. Perches for broilers are recommended as indoor environmental enrichment, but not required.

Outdoor space requirements - §205.241(c)

The Organic Foods Production Act of 1990 states as one of its purposes: "to assure consumers that organically produced products meet a consistent standard."[35] Currently, USDA enforcement policy does not assure consumers that organic egg and poultry producers are consistently meeting the current rule's requirement for "freedom of

movement,"[36] "access for all animals to the outdoors,"[37] and "living conditions that accommodate the health and natural behaviors of animals."[38]

From an animal welfare perspective, outdoor access is very important. Outdoor areas offer stimuli and opportunities for engaging in natural behaviors that are difficult, if not impossible, to replicate indoors.[39]

Perhaps one of the most important and basic natural behaviors of chickens is foraging ("scratching-and-pecking"). One study found that when given the opportunity, laying hens will spend between one-third and one-half of the day foraging.[40]

While the current organic standards require "year-round access for all animals to the outdoors" and prohibit "continuous total confinement of any animal indoors,"[41] the USDA has not enforced this requirement for organic laying hens and broilers. Some producers currently provide small, entirely enclosed porches with concrete flooring as "outdoor access" and sell their products as USDA organic.

This is not what consumers expect: our survey data show that more than half of consumers think that organic animals go outdoors, and nearly three-quarters expect organic animals to go outdoors. We believe the current standard is clear and should be enforced; we do not believe that concrete covered porches that cannot accommodate every animal meet the current requirement for "year-round access for all animals to the outdoors." We therefore support the proposed rule's specific prohibition of porches as meeting the requirement for outdoor access under §205.241(c)(6).

However, we do not believe that the proposed minimum outdoor space requirements are adequate. The proposed 2.25 pounds per ft^2 translates to approximately 2 ft^2 for a 5-pound laying hen and 1 ft^2 for a 5-pound broiler chicken. If a laying hen stretches her wings, she occupies more than 2 ft^2. If all laying hens went outdoors at the same time (the current standards require "access for all animals to the outdoors"), they would not all be able to stretch their wings. Foraging and engaging in even the most basic natural behaviors such as walking and stretching wings is not possible in such a small space.

The problem is not that the current standards are unclear; they are very clear in requiring the accommodation of natural behaviors and outdoor access. The problem is lack of enforcement of the standards. We believe the proposed rule would be a step backward rather than forward in terms of ensuring that laying hens can engage in natural behaviors outdoors. This, combined with the continued allowance of beak trimming, would legitimize as "organic" a system of animal agriculture that is too crowded for the animals, and does not promote animal welfare.

The proposed rule's space requirements would create inconsistency in the standards: the current requirement for freedom of movement and ability to engage in natural behaviors cannot be met with 2 ft^2 of outdoor space per 4.5 pound laying hen or 1 ft^2 per 4.5 pound broiler.

Label / Standards for laying hens	**Min. outdoor space requirement for laying hens (approx.)**
USDA Organic - Proposed rule	2 ft^2/hen[42]
European Union organic standards	43 ft^2/hen
Demeter Biodynamic	43 ft^2/hen
Animal Welfare Approved	4 ft^2 with additional requirements for access to well-managed and rotated pasture
Certified Humane	Outdoor access is not required
Certified Humane + Free Range	2 ft^2/hen
Certified Humane + Pasture Raised	109 ft^2/hen
American Humane Association	Outdoor access is not required
American Humane Association + Free Range or Pasture-Raised	109 ft^2/hen

Label / Standards for broilers	**Min. outdoor space requirement for broilers (approx.)**
USDA Organic - Proposed rule	1 ft^2 per 5-pound chicken. The standards would require a max. of 5 pounds of chicken per ft^2
European Union organic standards	43 ft^2
Demeter Biodynamic	43 ft^2
Animal Welfare Approved	4 ft^2 with additional requirements for access to well-managed and rotated pasture
Certified Humane	Not required
GAP Step 5+	No minimum space requirement, access to the outdoors is required.
GAP Step 5	No minimum space requirement, access to the outdoors is required.
GAP Step 4	No minimum space requirement, access to the outdoors is required.
GAP Step 3	Minimum of 25% of the total indoor space of the house
GAP Step 2	Not required
GAP Step 1	Not required
American Humane Association	Not required

Access to the outdoor space - §205.241(c)(2)

We urge the USDA to strengthen the requirement for access to the outdoors. The USDA proposes: "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 area within one hour." It is unclear how "within one hour" could be audited and enforced, not to mention that it is unclear whether birds are capable for waiting

for an hour to go outdoors. This proposed requirement is not consistent with true and meaningful outdoor access.

Instead, we recommend that the USDA set a minimum linear space requirement for the door openings. The Animal Welfare Approved program requires "entries and exits whose combined width adds up to at least a quarter of an inch per bird." In the European organic standards, "exit/entry pop-holes shall have a combined length of at least 4 m per 100 m^2 area of the house available to the birds." We urge the USDA to set a minimum linear requirement similar to the European Union standards: 12 feet of door space per 1,000 ft^2 of floor space.

Condition of the outdoor space - §205.241(c)

We support the prohibition on porches as meeting the requirement for "outdoor space" in §205.241(c)(6).

As noted earlier, however, we do not support the small minimum space requirements in §205.241(c)(3), (4) and (5).

Structures that provide shade also provide protection from aerial predators and should be provided. Studies have shown that hens are more likely to use the outdoor space when it contains overhead cover and shade.[43] We urge the USDA to change "may" to "must" in §205.241(c)(7).

We have concerns with §205.241(c)(8), where it reads that "at least 50 percent of outdoor access space must be soil." We urge the USDA to change this to "at least 50% of outdoor access space must be **vegetated** soil." This would ensure that chickens are able to engage in their natural behaviors by foraging on vegetated land; studies have shown that chickens will use outdoor areas more and engage more in natural foraging behaviors if the land is vegetated rather than bare.[44]

Temporary confinement and access to the outdoor space - §205.241(d)

The proposed rule allows for temporary indoor confinement under §205.241(d)(1) because of "inclement weather," which is defined as "when air temperatures are under 40 degrees F or above 90 degrees F." Chickens, once they are fully feathered, are capable of withstanding temperatures much colder than 40 degrees F. Choosing types of livestock that are suitable to site-specific conditions is already a requirement under §205.238(a)(1), so producers living in colder climates should choose breeds that are able to withstand cold temperatures.

The proposed rule would also allow for indoor confinement for the first 4 weeks of life for broilers and other meat birds and the first 16 weeks of life for pullets, under §205.241(d)(2). This conflicts with the proposed requirement in §205.241(c)(1) to "provide access to the outdoors at an early age to encourage (train) birds to go outdoors," and creates inconsistency in the rule. A study investigating the use of outdoor range by laying

hens found that flocks with range access at 8 weeks of age averaged 28%, compared with 12% at 16 weeks, suggesting that access to range at an early age is important.[45] We recommend that the allowance for indoor confinement for laying hens be changed from 16 weeks to 8 weeks (if producers need to confine pullets for longer due to health risks, they can do so under §205.241(d)(3)).

Temporary confinement would be allowed to protect the health, safety and well-being of the animals under §205.241(d)(3), which we support. This allowance for indoor confinement to protect animal health is crucial in light of the arguments put forth by producers who do not grant any outdoor access to birds and argue that indoor confinement is necessary to protect animal health.

The proposed rule would also allow for indoor confinement due to "risk to soil or water quality" under §205.241(d)(4). This is vague language that could be interpreted to allow indoor confinement if the land base cannot support the animals, which could easily happen if only 2 ft^2 is available for each laying hen and 1 ft^2 for each broiler. We urge the USDA to clarify the proposed rule to leave no room for interpretation that would undermine the protections. Ideally, more space should be required for each bird. §205.241(d) should state: "The producer of an organic poultry operation may temporarily confine birds. Each instance of confinement must be recorded. Producers may **temporarily** confine birds because of" [suggested added language in bold].

Manure management - §205.241(e)

Responsible manure management is a critical component of a sustainable farm. Manure management for all livestock operations is already covered under §205.239(e), and the proposed rule would not change §205.239(e). The proposed rule adds nearly identical language to §205.241(e), specifically for poultry operations. It is unclear what §205.241(e) adds to the regulations, since poultry operations are covered under §205.239(e). We support regulations for responsible manure management; however, to avoid duplicity with §205.239(e) and avoid confusion, we believe adding §205.241(e) is not necessary.

Additional recommendations: addressing genetics / rapid weight gain (broilers)

Poultry breeding programs and farming practices have focused on achieving rapid growth and large breast muscles, largely ignoring health problems that arise from such rapid growth. Chickens can suffer from leg deformities and lameness due to their rapid growth and the weight of their large breast muscle. Rapid weight gain can also lead to problems with internal organs, especially the heart and lungs, which cannot distribute enough oxygen throughout the enlarged body's muscles.[46] Fast-growing birds also often suffer from acute heart failure and sudden death syndrome.[47]

Meaningful animal welfare standards should prohibit rapid weight gain, which has been achieved by other standards by setting a minimum age at slaughter or a maximum rate of daily growth. This was not addressed in the recommendations of the National Organic Standards Board (NOSB), yet we urge the USDA to consider this animal welfare

issue and address it. It is also the reason that we urge the USDA to set a maximum length of artificial light for broilers as well as laying hens.

Label / Standards	**Limit on rapid weight gain**
USDA Organic - Proposed rule	Not addressed
European Union organic standards	Minimum age at slaughter is 81 days which discourages producers from choosing fast-growing breeds.
Demeter Biodynamic	Minimum age at slaughter is 81 days which discourages producers from choosing fast-growing breeds.
Animal Welfare Approved	Birds who have undergone genetic selection to the point that their welfare is negatively affected are prohibited; hen averaged over their entire lives, the rate of growth of meat chickens allowed to grow naturally on an optimum ration must not exceed 0.075 lbs (34 g) per day.
Certified Humane	"During selection of birds, care must be taken to select birds for high welfare traits and avoid genetic strains with undesirable traits." Standards do not prohibit strains that have been selected for rapid growth at the expense of welfare.
GAP Step 5+	Breeds/lines must be chosen for good leg health and for low levels of mortality and for the ability to range and good immune systems
GAP Step 5	Breeds/lines must be chosen for good leg health and for low levels of mortality and for the ability to range and good immune systems
GAP Step 4	Breeds/lines must be chosen for good leg health and for low levels of mortality and for the ability to range and good immune systems
GAP Step 3	Breeds/lines must be chosen for good leg health and for low levels of mortality
GAP Step 2	Breeds/lines must be chosen for good leg health and for low levels of mortality
GAP Step 1	Breeds/lines must be chosen for good leg health and for low levels of mortality
American Humane Association	Not addressed

Additional recommendations: addressing good hygiene on organic poultry farms

The mammalian livestock living conditions section has a proposed requirement for cleaning and disinfecting as needed under §205.239(a)(6). We believe this is important for poultry farms as well and request a similar section be added to the avian living conditions section.

Food Safety and Sustainability: A Science-Based Approach

We are aware of arguments that chickens should be confined continually indoors in order to protect food safety and animal health. These arguments seem to be primarily from producers whose poultry houses would not be able to accommodate the outdoor space requirements for all chickens. We do not agree with these arguments, as scientific studies indicate that indoor confinement is a risk factor, and therefore not part of the solution to food safety and animal health problems.

Foodborne illness -- Salmonella

Many studies have been conducted to identify risk factors for *Salmonella* contamination. A 2015 systemic review of 17 studies identified risk factors for *Salmonella* contamination to include large flock size (>30,000 birds), caged housing systems, absence of cleaning and disinfection, induced molting, presence of rodents, presence of trucks near the farm, allowing visitors in the laying hen houses, rearing pullets on the floor, high manure contamination, and high egg production rate.[48]

In Europe, where organic standards require 43 ft^2 of outdoor space per chicken, studies have shown that farms with outdoor runs generally have the lowest *Salmonella* prevalence rates.[49]

Animal Health -- avian influenza

As the National Organic Coalition (of which we are a member) pointed out last year in a policy paper on "avian influenza and outdoor access for organic poultry flocks," the mutation of the relatively harmless low pathogenic avian influenza (AI) strain to the potentially deadly high pathogenic avian influenza (HPAI) occurs almost exclusively in crowded indoor poultry houses.[50]

The AI virus transmits through feces and does not easily survive sunlight[51] and drying.[52] It is therefore more likely to survive and spread in or between crowded, unsanitary, indoor poultry houses.

We agree with the National Organic Coalition that preventing future outbreaks of highly pathogenic avian influenza should involve addressing the root of the problem, by building a system of poultry farming with low densities, outdoor access, and healthy birds with strong immune systems.

It is also clear that the science does not support confining poultry indoors as a preventive measure, since indoor confinement appears to be the real risk factor for avian

influenza and past experiences with the virus have shown that it spreads easily between confinement poultry houses on people (veterinarians, farm workers, catchers, vaccination crews), trucks, water, feed, and shared equipment.[53] A 2015 USDA finding even suggested that highly pathogenic avian influenza could be transmitted through air and wind,[54] suggesting it may be nearly impossible to protect birds even when they are confined indoors.

However, organic flocks are not immune to HPAI when an outbreak occurs and should be protected from infection. The organic standards already allow for temporary confinement during emergencies, and this exception would apply as well under the proposed rule. The USDA proposes under §205.241(d)(3) to allow temporary confinement because of "conditions under which the health, safety or well-being of the animal could be jeopardized."

Implementation/Timeframe

Organic standards for egg and poultry producers currently require "year-round access for all animals to the outdoors." Guidance documents by the USDA and lack of enforcement of this requirement have created inconsistency; however, egg and poultry producers have known for at least five years that proper enforcement of the outdoor access requirement would be established (the NOSB's recommendation was passed in 2011). The proposed implementation timeframe of three years for non-certified operations and an additional five years for certified operations is very generous and should alleviate the concerns about economic impacts raised by the producers who are currently certified without meeting the requirement for outdoor access.

Organic certification is voluntary

We believe the implementation timeframe for poultry producers addresses concerns by producers who claim they cannot currently meet the requirement for outdoor access. The proposed timeframe gives adequate time for all producers to come into compliance, especially given the fact that the organic standards have always required access to the outdoors for all animals.

Producers who do not meet the current requirement for outdoor access and could not meet the proposed requirement for outdoor space, can and should sell under another label that more accurately communicates their on-farm practices to consumers. Organic farming is systemically different from conventional farming: an organic farm is not simply one that substituted organic-approved inputs for conventional inputs without changing *how* plants are grown and animals are raised. The organic standards have always required outdoor access for animals. This proposed rule does not change the organic standards from allowing continuous indoor confinement to prohibiting it; the proposed rule simply clarifies what has always been required. If farms that are currently certified organic but confine tens of thousands or even hundreds of thousands of birds indoors without the possibility of granting acceptable outdoor space for them cannot meet the proposed standards, this is simply an indication that these farms are failing to meet the current requirements for outdoor access and living conditions that accommodate natural behaviors.

The federal organic standards are **voluntary** standards. Unlike federal standards that apply to all producers, no producer is forced to comply with the organic rules; rather, certified organic producers have opted to comply with the organic standards in return for the use of the USDA Organic label, which communicates their commitment and compliance with this set of rules to consumers. In return, consumers pay more.

This labeling system can only work to the benefit of both producers and consumers if the meaning of the label is consistent and consumers get what they expect. Consumers expect animal products labeled "organic" to come from animals that were treated well and were able to go outdoors. Any argument regarding economic harm from a producer who cannot meet the outdoor requirement for chickens should be weighed against the economic harm to the consumers who are paying a higher price in order to support a more humane and sustainable food system.

We urge the USDA to also consider the economic impact of not finalizing the rule on the organic farmers who do meet the current requirement for outdoor access, and are currently unfairly competing in the marketplace with producers who do not let their birds outdoors.

Summary

We support the proposed rule and its intent to improve consistency in the organic marketplace, particularly for organic poultry and egg products. There is a need for standards in the National Organic Program that ensure high animal welfare on organic farms, and this proposed rule moves the organic standards closer to meeting consumer expectations for foods from farms with good animal welfare. We believe some changes to the proposed rule are needed to ensure that the standards are consistent and meaningful, and we urge the USDA to make the changes recommended in this comment and proceed expeditiously with the rulemaking process.

Thank you for considering our comments.

Respectfully submitted,

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[1] Since its founding in 1936 as an independent, non-profit organization, Consumer Reports has empowered consumers with the knowledge they need to make better and more informed choices—and has

battled in the public and private sectors for safer products and fair market practices. Consumer Reports serves consumers through unbiased product testing and ratings, research, journalism, public education, and advocacy. Consumer Reports has over 8 million subscribers to its magazine, website and other publications.

[2] §205.2 and USDA fact sheet: Agricultural Marketing Service's National Organic Program. Available online: www.ams.usda.gov/sites/default/files/media/About%20the%20National%20Organic%20Program.pdf.

[3] Consumer Reports National Research Center. Natural Food Labels Survey. 2015. Available online: www.greenerchoices.org/pdf/CR_2015_Natural_Food_Labels_Survey.pdf.

[4] Consumer Reports National Research Center. Natural Food Labels Survey. 2015. Available online: www.greenerchoices.org/pdf/CR_2015_Natural_Food_Labels_Survey.pdf.

[5] Scientific Opinion of the Panel on Animal Health and Welfare on a request from Commission on the risks associated with tail biting in pigs and possible means to reduce the need for tail docking considering the different housing and husbandry systems. *The EFSA Journal* (2007) 611, 1-13.

[6] Scientific Opinion of the Panel on Animal Health and Welfare on a request from the Commission on Animal health and welfare in fattening pigs in relation to housing and husbandry. *The EFSA Journal* (2007) 564, 1-14.

[7] Scientific Opinion of the Panel on Animal Health and Welfare on a request from Commission on the risks associated with tail biting in pigs and possible means to reduce the need for tail docking considering the different housing and husbandry systems. *The EFSA Journal* (2007) 611, 1-13.

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