



ORGANIC FARMING RESEARCH FOUNDATION

Fostering the improvement and widespread adoption of organic farming.

January 16, 2018

Paul Lewis, Ph.D.
Director, Standards Division National Organic Program
USDA-AMS-NOP
1400 Independence Avenue, SW Room 2646-
So., Ag Stop 0268 Washington, DC 20250-0268
Docket: AMS-NOP-15-0012; NOP-15-06PR
RE: National Organic Program; Organic Livestock and Poultry Practices; Withdrawal

Docket: AMS-NOP-15-0012; NOP-15-06,
RIN: 0581-AD75

Dear Dr. Lewis,

OFRF is a national, public-interest organization founded in 1990 to foster the improvement and widespread adoption of organic farming systems. As an organic farmer-driven organization, we serve to help meet the demand for organic agriculture research, extension and education. As a scientific organization, we seek to ensure that sound agricultural research is taken into consideration by both farmers and policy makers.

The Organic Farming Research Foundation (OFRF) strongly urges the U.S. Department of Agriculture (USDA) to not withdraw the Organic Livestock and Poultry Practices (OLPP) final rule (Federal Register January, 19 2017). The rule should be reinstated and AMS should begin immediately to prepare for implementation.

Withdrawal of the rule will have severe detrimental consequences for the entire U.S. Certified Organic supply chain, for both existing and prospective participants. Consumer trust in the USDA Organic label will be deeply harmed. Trust and respect for the Agricultural Marketing Service and the National Organic Program will be damaged.

The OLPP Final Rule is sound and completely faithful to the authorizing legislation. There is no valid reason for the noticed withdrawal. The decision to withdraw the rule appears to be an abuse of regulatory discretion by the Acting Administrator and the Secretary.

Authority Under the OFPA to Issue Animal Welfare Regulations

Organic livestock and poultry practices are part of the basic principles of organic production outlined in the Organic Foods Production Act (OFPA) of 1990 (7 U.S.C. 6501-6522). Congress directed USDA to establish national standards governing the marketing of certain agricultural products as organically produced products; to assure consumers that organically produced products meet a consistent standard; and to facilitate interstate commerce in fresh and processed food that is organically produced. The USDA has also been tasked with assuring consumers that organically produced products meet a consistent standard.



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Congress also directed the USDA to convene an expert citizen-advisory board, the National Organic Standards Board (NOSB) “to advise the Secretary on any other aspects of the implementation of this title” 7 U.S.C. § 6518(a). The OFPA goes further and explicitly directs that “[the NOSB] shall recommend to the Secretary standards in addition to those in [the previous section] for the care of livestock to ensure that such livestock are organically produced.” 7 U.S.C. § 6509(d)(2).

OFRF agrees with AMS findings that its rulemaking authority in section 6509(d)(2) should not be construed in isolation. The “Health Care” of livestock managed in organic systems, as outlined in 7 U.S.C. § 6509(d) encompasses all aspects of animal husbandry, including but not limited to livestock living conditions, care and management, handling, transportation, and slaughter. Under existing authority, the USDA previously enacted additional and important regulations to provide additional clarity for the production and management of organic livestock (*see* 7 CFR §205.236- §205.239). However, the current USDA organic regulations (7 CFR part 205) covering livestock health care practices and living conditions need additional specificity and clarity to better ensure consistent compliance by certified organic operations and to provide for more effective administration of the National Organic Program. The final OLPP rule does just that under existing authority granted to the USDA by Congress.

The final rule closes existing loopholes and levels the playing field for organic producers, ultimately ensuring that USDA Certified Organic can continue to meet evolving consumer expectations. This final OLPP rule has gone through ten years of public process, numerous public hearings and formal recommendations from the USDA’s expert advisory board. The withdrawal of the final OLPP rule would significantly erode consumer trust in the organic label, which is the basis for the organic sectors double-digit sales and economic growth.

Organic customers expect organic products to meet or exceed the organic standards, including animal welfare provisions for consistent, meaningful outdoor access and indoor space that allows animals to express natural behaviors. If the organic standards are not met, customers lose faith in the organic standards and animal welfare provisions therein. This would be detrimental to the organic livestock sector, which represented approximately \$3 billion worth of organic commodities in 2016 according to the USDA National Agricultural Statistical Service. The final OLPP is necessary to ensure consumer confidence in the organic seal and should be implemented by USDA.

Impact of OLPP Final Rule on Producers

Producing food in compliance with organic standards, and seeking organic certification, is a choice made by producers. In making the choice to produce organically, all producers need to be aware that the NOSB is established by the Secretary to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title (the Organic Foods Production Act). 7 U.S.C. 6518(a).

While any evolution of the organic standards will impact producers, it is common knowledge for all organic producers that the requirements for organic certification may evolve and change over time. All USDA certified organic producers must innovate and evolve along with the organic standards. A failure to comply with the evolving nature of the organic standards does not prohibit a producer from continuing to operate a business. However, failure to comply with evolving organic standards does mean that a producer will enjoy the opportunities to compete with 95% of the US food supply, rather than the 5% of the market that represents organic production.



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The USDA is correct in noting that the organic industry continues to grow domestically and globally, with 24,650 certified organic operations in the United States, and 37,032 around the world, at the end of 2016. The 2016 count of U.S. certified organic farms and businesses reflects a 13% increase between the end of 2015 and 2016, continuing a trend of double-digit growth in the organic sector.

However, the USDA's concern that the OLPP final rule will prevent or stunt future market-based innovation in response to evolving social and producers norms is unfounded. As mentioned above the final OLPP represents ten years of public process, numerous public hearings and formal recommendations from the USDA's expert advisory board. The OLPP is itself an innovation and evolution of the organic standards in response to evolving social and producer norms. The OLPP is intended to ensure that market-based organic producers are consistent in delivering the quality organic products demanded by the organic market.

Conclusion

The USDA has the existing authority to implement the final OLPP rule. The organic sector, from farmers to businesses to agricultural scientists, overwhelmingly supports the implementation of the final OLPP rule. Implementation of the final OLPP rule would require increased organic pasture-based livestock production, which could facilitate increased profitability in US organic enterprises.

Since 2002, there have been several USDA Organic Research and Extension Initiative (OREI) funded studies focusing on animal health, including: management of diseases, parasites, and pests; pasture and grazing management; livestock housing and living conditions. Based on a detailed analysis of this research, OFRF strongly supports the implementation of the final OLPP rule. We urge the USDA to not withdraw the final OLPP rule, and to implement the rule on May 14, 2018.

Withdrawal of the OLPP Final Rule will certainly de-value the organic seal and diminish its worth as a business proposition for potential organic producers of poultry and livestock products.

Sincerely,

Executive Director
Organic Farming Research Foundation