



THE CENTER FOR FOOD SAFETY

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Valerie Frances
Executive Director, NOSB
USDA-AMS-TMD-NOP
1400 Independence Ave. SW
Room 4004-S, Ag Stop 0268
Washington, DC 20250-0268

**RE: Docket No. AMS-TM-09-0060; TM-09-07
Livestock Committee Animal Welfare Recommendations 14 September 2009**

We are writing to you on behalf of the Center for Food Safety (CFS), a non-profit membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other sustainable forms of agriculture. CFS represents approximately 85,000 people across the US who support organic agriculture and regularly purchase organic products. CFS is a founding member of the National Organic Coalition (NOC), an alliance of organizations representing farmers, environmentalists, and other organic industry members and consumers concerned about the integrity of organic standards.

Our comments address the draft proposed animal welfare recommendations proposed by the Livestock Committee on September 14, 2009. CFS recognizes that organic livestock audit and enforcement standards already exceed US conventional methods. Many organic livestock family farmers use enhanced animal welfare practices in caring for the health and welfare of their animals. As the Livestock Committee states in its recommendations, the humane treatment of animals is “an integral part of the expectations of organic consumers” and it was envisioned as an essential component of the NOP by the original drafters and supporters of the Organic Foods Production Act (OFPA). CFS applauds the Livestock Committee for its efforts to engage the public in discussions about the development of appropriate animal welfare standards for the National Organic Program (NOP) and we look forward to the incorporation of strong, animal protection requirements into the NOP rule.

CFS General Comments

CFS would like to emphasize that explicit guidance and standards protecting animal welfare are of utmost concern to our members and organic food consumers.

1) Organic Consumers Expect the Use of Humane Animal Welfare Practices

In 2006, CFS conducted a consumer survey to assess public opinion about animal welfare and pasture access, particularly by those who consumed organic food.¹ Our survey found that:

- A majority of people who have ever purchased organic milk (51%) said they would no longer purchase organic milk if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.
- Forty-four percent (44%) of those who frequently purchase organic milk said that they would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

Women (the principal family food purchasers) are even more apt to change their organic milk purchasing habits:

- Sixty-one percent (61%) of women who purchase organic milk frequently or on occasion, would no longer do so if they knew that many organic cows were confined to fenced-in feedlots and did not graze on pasture for most of their lives.

While the majority of our questions were based on confinement issues, survey results suggest that people who purchase organic food expect that protective animal welfare measures are integral to the organic production process.

It is also worth noting that animal welfare considerations were an important topic of discussion during the public participation process on the draft pasture rule for organic livestock production.

2) Organic Milking Cycles Should Reflect Animal Comfort and Limit Milkings to Twice a Day

In the minority opinion, Mr. Engelbert expresses his concern with more than twice a day milkings of organic dairy herds. CFS supports this position in light of the fact that more than twice a day milkings are often facilitated by large feed inputs of non-forage livestock operations, which we do not support. Moreover, they have the potential to cause animals discomfort and disrupt their natural patterns including access to pasture, which contravenes OFPA rules.²

¹ The national polling was conducted by the firm American Viewpoint. This data is from a national survey of 1011 U.S. adults conducted March 29 through April 3, 2006. The margin of error for the entire sample is plus or minus 3% at the 95% confidence level. The margin of error for the organic milk consumer (n=188) is plus or minus 7.2% at the 95% confidence. The sample size used in its polling is consistent with the survey sample size used by the California Institute for Rural Studies, in its USDA-AMS funded study, "Regulating Organic: Impacts of the National Organic Standards on Consumer Awareness and Organic Consumption Patterns."

² The proposed Pasture Requirement Rule (73 Fed. Reg 63589, October 24, 2008) made recommendations that would "accommodate the health and natural behavior of animals throughout the year."

CFS urges the NOSB to review case studies from New Zealand and Europe which encourage once a day milking³ and demonstrate that twice a day milkings are sufficient to enable a producer to gain acceptable milk yields while facilitating the comfort and welfare for dairy animals.

3) *United States Certified Organic Animal Welfare Standards Should be Equal to or Exceed Conventional Animal Welfare Standards in the European Union (EU).*

CFS recognizes that the Livestock Committee considered the standards of other countries when determining proper animal welfare standards and we support this process. However, in certain instances the Livestock Committee has put forth standards that are less stringent than those in place for conventional animal production in the EU. We believe that certified organic animal welfare standards should go above and beyond the requirements of conventional animal production in the U.S. and elsewhere. American consumers expect that organic products are produced with a higher level of animal welfare than non-certified organic products. To maintain consumer confidence in the organic label, it is essential that certified organic animal products exceed the standards for conventional animal production in the United States and other countries. We recommend that the Livestock Committee adopt standards at least as strict as conventional livestock standards in the EU.

Specific Recommendations

CFS recommends the following proposed text of the animal welfare guidelines, detailed below.

§205.2 Terms Defined

(Additional language is included in bold text).

Stocking rate: A measurement of the long-term carrying capacity of a pasture based on available nutrients, climate, and potential ecosystem impacts. When determining a stocking rate, producers should consider biodiversity impacts associated with the pasture in accordance with existing NOP guidance.⁴

We believe that a more thorough definition of stocking rate is necessary for the NOP to encourage producers to consider the relationship between environmental impacts of pasture systems and their stocking rates. Good pasture management can have many beneficial ecosystem services including carbon sequestration, prevention of run-off and erosion, and maintaining habitat for native grasses and species. CFS believes that a proper stocking rate should go beyond merely considering the number of livestock animals allowed on a given parcel of land, but must also consider the multiple ecosystem services that pasture raised livestock can provide.

³ See for example, The DairyNZ website on this topic at: <http://www.dairynz.co.nz/page/pageid/2145838029>

⁴ Formal Recommendation by the National Organic Standards Board to the National Organic Program on Biodiversity Conservation. Retrieved from <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5078051&acct=nosb>

§205.238 *Livestock Health Care Practice Standard*

§205.238 (6) *Animal Physical Alterations*

CFS supports the Livestock Committee’s recommendation for including clear and explicit language detailing the types of animal alterations that are prohibited and allowed by the NOP. By allowing animal alterations only when absolutely necessary and only in cases to improve animal health, welfare or hygiene, the Livestock Committee demonstrates that unnecessary animal cruelty procedures are not acceptable in organic production. Furthermore, we support the prohibition of a number of particularly egregious alteration practices, as recommended by the Livestock Committee. Certain animal alteration procedures are simply not acceptable under any circumstances. Moreover, organic consumers also expect this type of explicit limitation on animal cruelty practices.

CFS applauds the Livestock Committee for setting a precedent within the animal production industry to prohibit such practices, particularly in the face of existing laws where farm animal welfare regulation is noticeably absent. Federally, farm animals are exempt from the statute designed to protect animals from abuse — the Animal Welfare Act.⁵ Most state animal welfare laws also allow cruel farm animal abuses to continue if the practices are generally “accepted,” “customary,” or “established” as standard practices within the industry.⁶ In fact, it is typical for states to assert that anti-cruelty laws “do not prohibit or interfere with established methods of animal husbandry, including raising, handling, feeding, housing and transporting livestock or farmed animal,”⁷ as is the case with Nevada and other states. By implementing explicit language preventing the worst abuses in animal husbandry, the NOP sets a high bar for animal production practices and raises the awareness within the industry that egregious practices are not “widely accepted” by consumers or other animal producers.

CFS recommends the following addition to section §205.238 “Livestock Health Care Practice Standard”:

(c) (11) Practice force feeding.

⁵ Animal Welfare Act, 7 U.S.C. §2131-2159.

⁶ See, e.g., Ariz. Rev. Stat. § 13-2910(C) (2002); Colo. Rev. Stat. §§ 18-9-201.5(1), 18-9-202(2)(a.5)(VII) (2007); Conn. Gen. Stat. § 53-247(b) (2004); Fla. Stat. § 828.125(5) (1999); Idaho Code Ann. § 25-3514(2), (5), (9) (1998); 510 Ill. Comp. Stat. 70/13 (1993); Ind. Code § 35-46-3-5(5)-(6) (2009); Iowa Code § 717B.1(1)(a) (2002); Kan. Stat. Ann. § 21-4310(b)(6), (11) (2008); La. Rev. Stat. Ann. § 14:102.1(C)(2) (2009); Md. Code Ann., Crim. Law § 10-603(1) (2002); Mich. Comp. Laws § 750.50(11)(f) (2007); Mo. Rev. Stat. § 578.007(8) (1995); Mont. Code Ann. § 45-8-211(4)(b) (2003); Neb. Rev. Stat. § 28-1013(7) (2009); Nev. Rev. Stat. § 574.100(8)(b) (2009); N.J. Stat. Ann. § 4:22-16(e) (1998); Ohio Rev. Code Ann. §§ 959.06(B), 959.13(B) (2009); Or. Rev. Stat. § 167.335 (2003); 18 Pa. Cons. Stat. § 5511(c)(3) (2000); S.C. Code Ann. § 47-1-40(C) (2008); S.D. Codified Laws §§ 40-1-26, 40-1-33, 40-2-4 (1991); Tenn. Code Ann. § 39-14-202(f)(1) (2007); Utah Code Ann. § 76-9-301(9)(a) (2008); Vt. Stat. Ann. tit. 13, § 351b(3) (1997); Va. Code Ann. § 3.2-6570(C) (2008); Wash. Rev. Code § 16.52.185 (1994); W. Va. Code §§ 61-8-19(f), 7-10-4(h) (2008); Wis. Stat. § 951.14 (2005); Wyo. Stat. Ann. §§ 6-3-203(f)(i), (m)(ii), 11-29-113 (2008).

⁷ Nev.Rev.Stat.Ann §574.200.6 (2007).

§205.239 *Livestock Living Conditions*

CFS recommends adopting nesting, perching, and litter requirements for laying hens. In Council Directive 1999/74/EC, the EU provides an example of adequate nest space, perch space and litter per hen. CFS encourages the NOSB to examine EU standards and require a minimum number of nests per hen, minimum perch space per hen, and minimum litter volume per hen.

In section §205.239 (2iii) CFS strongly supports “complete access” to the outdoors for poultry. We believe that more rigorous standards should be put in place to define complete access to the outdoors with regards to poultry. In some cases poultry may be crowded together indoors and have access to the outdoors only through one small door or opening, making it difficult for poultry to gain access to the outdoors. CFS recommends that NOSB consider implementing a standard for poultry houses that explicitly determines entry and exit holes for poultry based on the number of birds in the space. In particular, we suggest the NOSB review the EU standards which require 4m per 100m² of the house for poultry.

(2) (iii) CFS recommends the adoption of the following amendment:

(iii) Poultry reared in houses shall have complete access to pasture, open-air runs, and water ~~or other exercise areas~~ subject to the species, weather, parasites, predators, and ground conditions, and shall have such access for a minimum of one third of their life.

CFS recommends removing the term “or other exercise areas”, which could allow for the inclusion of industrial style confined areas to be included within this definition.

(a)(3)ii. CFS recommends the adoption of following amendment:

(ii.) Be provided with protective facilities when necessary; permit animals to have access to an adequate number of drinking troughs **continuously** and feeding troughs regularly.

Poultry require significant amounts of water and continuously need access to such amenities, particularly in warm weather. We add the word “continuously” to emphasize that poultry should always have access to clean water throughout their time in open-air runs.

(c) (4)

CFS believes that the standards put forth regarding calf housing in individual pens is inadequate and does not serve as an exemplary animal welfare standard as it should. While the Livestock Committee’s recommendations allows for calves to be isolated or house individually for six months, the EU sets much stricter standards for animal welfare. In the EU, such practices are

only allowed for eight weeks.⁸ Scientific evidence recognizes that calves benefit from environments corresponding to their needs as a herd-living species.⁹ Therefore, CFS recommends that the NOSB adopt the EU standard for calf housing to ensure animal welfare considerations.

(c) (5)

CFS recommends the Livestock Committee reconsider the stocking density rates to calculate rates by weight and not by animal to ensure more accurate space allocation. Such practices are common in the EU for conventional animals and we believe that USDA certified organic animal welfare requirements should meet or exceed this standard.¹⁰ Animals increase in size and weight during their lives on the farm. Calculating stocking densities by animal instead of by weight promotes increasingly cramped conditions as animals reach their slaughter weight. Further, weight ranges from animal to animal. For instance, a slaughter weight broiler chicken can weigh 3.5 to 6 pounds. Calculating stocking densities by weight will ensure each animal receives the minimum amount of space necessary for that species.

CFS also recommends increasing the stocking density rates for broilers and laying hens to ensure they are at least equivalent to the EU conventional standards. The Livestock Committee should examine Council Directive 2007/43/EC as well as Council Directive 1999/74/EC when determining the stocking densities for broilers and laying hens.

Alternatively, the NOSB should examine capping the maximum number of birds allowed per poultry house as required in EC 1804/1999 - EU's organic livestock standards.

(c)(5)(ii)(A)

CFS commends the Livestock Committee for banning confinement in cages. In doing so, the NOP would eliminate one of the cruelest common animal husbandry practices — battery cages. Battery cages do not provide hens the space needed to spread their wings, walk or stand, perch, make a nest, or exhibit normal behavior. As the European Commission's Scientific Veterinary Committee Concluded, "because of its small size and barrenness, the battery cage has severe disadvantages for the welfare of hens."

To complement this action, CFS emphasizes the importance of adding the additional nesting, perch, and litter requirements in section 205.239(a)(2).

Conclusion

⁸ Council Directive 2008/119/EC laying down minimum standards for the protection of calves at (3)(10(A)).

⁹ Council Directive 2008/119/EC at Preamble (7).

¹⁰ See Council Directive 2007/43/EC laying down minimum standards for the protection of chickens kept for meat production.

The recommendations of the Livestock Committee on animal welfare are long overdue in certified organic operations and we thank the Committee for putting forth working standards. Stringent requirements for animal welfare will build consumer confidence in the certified organic label. Organic consumers have long expected the organic standards to consider animal welfare considerations and go above and beyond non-organic animal production. With the inclusion of animal welfare standards built into the certification process of organic animal production, U.S. consumers will finally have the guarantee that their organic products are reared in a responsible manner.

Furthermore, explicit standards for animal welfare practices under the organic label will ensure that standardized practices are enforced in accordance with the OFPA, unlike other existing labels that claim to be protective of animal welfare with no enforcement capabilities. Certified organic animal products that follow structured guidance for the humane treatment of animals afford new opportunities for the organic sector to capture the purchasing power of consumers who want to support animal welfare practices that are verifiable and enforceable under the law.

Moreover, CFS encourages the NOP to further examine the EU's animal welfare standards, which in some ways exceed those put forth by the Livestock Committee so that U.S. organic standards are at least as protective as, if not stronger than, conventional standards in the EU, one of our closest organic trading partners .

Thank you for the opportunity to comment on this important recommendation for animal welfare. Please feel free to contact us if you have any questions.

Respectfully Submitted,

Meredith Niles
Consultant on Animal Agriculture

Paige Tomaselli
Staff Attorney

Lisa J. Bunin, Ph.D.
Organic Policy Coordinator