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## USDA's Organic Livestock and Poultry Standards Regulations

In November 2023, the U.S. Department of Agriculture (USDA) finalized its Organic Livestock and Poultry Standards (OLPS) rulemaking (88 *Federal Register* 75394). The final rule updates regulations under USDA's National Organic Program (NOP) to promote animal welfare and encourage consistent livestock production practices and adds requirements for indoor and outdoor space for avian species, animal health care practices, confinement, transportation, euthanasia, and slaughter (7 C.F.R. Part 205). USDA's final rule concluded a decade-spanning rulemaking process.

### Background on USDA Rulemaking

USDA's rulemaking on organic livestock and poultry practices and standards was initiated in the 1990s with recommendations by NOP's advisory board about livestock health and animal welfare in organic production. This led to a series of USDA efforts regarding national standards for the production and handling of organic products, including livestock and their products. In April 2016, USDA published a proposed rule (81 *Federal Register* 21956), then a final rule in January 2017 (82 *Federal Register* 7042). USDA's 2017 final rule amended NOP regulations for USDA-certified organic livestock and poultry practices. It addressed four broad areas: living conditions, animal health care, transport, and slaughter. Some in Congress and the organic foods industry generally supported the requirements in USDA's 2017 final rule; others in Congress and the conventional U.S. poultry industry opposed the rule, particularly its animal welfare provisions.

In February 2017, USDA announced it would delay the effective date of the final rule to allow the incoming leadership at USDA under the Trump Administration to review the rule and decide whether to proceed with the rulemaking begun under the Obama Administration (82 *Federal Register* 9967). This action was followed by another series of delays. In December 2017, USDA published a proposed rule explaining the intent of the Agricultural Marketing Service (AMS) to withdraw the final rule (82 *Federal Register* 59988). USDA announced it was withdrawing the 2017 final rule based on its assessment that the "rule would exceed USDA's statutory authority" and a revised assessment of the final rule's costs and benefits. Subsequent evaluations by the U.S. Government Accountability Office in both 2017 and 2018 found that USDA's actions as part of the rulemaking had complied with applicable procedural requirements.

Many producer groups opposed USDA's withdrawal, and some organic industry advocates initiated a series of legal proceedings against USDA over its failure to put into effect regulations and standards for organic livestock and poultry operations. Organic industry advocates viewed these changes as "essential" to maintain the integrity and value of

the organic seal/label to consumers; some sought more restrictive requirements. While some in Congress opposed the withdrawal and urged USDA to finalize the rule, others strongly opposed USDA rulemaking. In 2016, several Members of Congress sent letters to USDA criticizing its regulation. Congressional appropriators also directed USDA to conduct a "thorough assessment on the costs of compliance and alternatives" for existing producers (H.Rept. 114-531). Much of the disagreement over USDA rulemaking centered on the rule's animal welfare requirements, particularly its animal outdoor access requirements and restrictions involving poultry perches.

### USDA's National Organic Program

**USDA National Organic Program (NOP)**—A voluntary certification program administered by USDA for producers and handlers of agricultural products who use certain approved organic methods codified in regulation under USDA's oversight.

**USDA-Certified Organic Production**—A production system managed in accordance with the Organic Foods Production Act (OFPA; P.L. 101-624, Title XXI; 7 U.S.C. §6501 et seq.) and USDA regulations intended to "respond to site-specific conditions by integrating cultural, biological, and mechanical practices that foster cycling of resources, promote ecological balance, and conserve biodiversity" (7 C.F.R. 205). Producers, processors, and handlers who wish to market their products as *USDA Organic* must follow production practices spelled out in regulation. USDA-approved organic standards address the methods, practices, and substances used in producing and handling crops, livestock, and processed agricultural products. They also describe the types of approved methods farmers and ranchers may use to grow crops and raise farm animals and the types of materials used in production. These standards must be verified by a USDA-accredited certifying agent before products can legally be labeled *USDA Organic*.

**National Organic Standards Board (NOSB)**—A 15-member advisory board that makes recommendations to USDA on organic production issues, as authorized by OFPA. NOSB assists in the development and maintenance of organic standards; USDA retains primary responsibility for setting regulatory standards as well as for compliance, enforcement, and auditor accreditation.

For more background, see CRS In Focus IF10278, *U.S. Farm Policy: USDA-Certified Organic Production*.

### USDA's 2023 OLPS Final Rule

The 2023 final rule updates USDA's organic regulations to promote more consistent animal welfare practices in organic livestock and poultry production. Covered operations include "livestock that are certified organic under the USDA organic regulations," including "mammalian species (e.g., cattle, swine, sheep, goats), avian or poultry species (e.g., chickens, turkeys, ducks), and other animal species used for food or in the production of

food, fiber, feed, or other agricultural-based consumer products.” The rule establishes certain (1) health care practices supporting the well-being of animals; (2) requirements regarding indoor and outdoor space and access to the outdoors; (3) new species-specific standards for avian species; and (4) requirements regarding transport, humane euthanasia, and slaughter of organic livestock. Amended NOP requirements cover definitions (7 C.F.R. §205.2), livestock care and production practices standards (§205.238), mammalian and nonavian livestock living conditions (§205.239), avian living conditions (§205.241), and transport and slaughter (§205.242). (See **text box**.) Covered operations must comply with the rule’s requirements by January 2025 but have until January 2029 to comply with outdoor spacing and exit area requirements.

For livestock, the 2023 final rule covers pasture management, recordkeeping, outdoor access, temporary confinement from the outdoors and pasture, and the amount of pasture required in proportion to the total diet or ration. It reiterates that any USDA-certified organic operations that slaughter livestock “must meet the humane handling and slaughter requirements the entire time they hold livestock in connection with slaughter”—specifically, USDA Food Safety and Inspection Service (FSIS) animal welfare regulations at 9 C.F.R. Part 313. (See also FSIS Directive 6900.2; 69 *Federal Register* 54625). Any nonambulatory livestock on organic farms must be medically treated or humanely euthanized (9 C.F.R. 309.2(b)).

Avian living conditions cover “year-round access to the outdoors, soil, shade, shelter, exercise areas, fresh air, direct sunlight, clean water for drinking, materials for dust bathing, and adequate space to escape aggressive behaviors.” The rule clarifies that *indoor space* for avian species may include “enclosed porches and lean-to type structures (e.g., screened in, roofed) as long as the birds always have access to the space, including during temporary confinement events” (7 C.F.R. 205.241(b)(12)). Species-specific outdoor space requirements for birds are based either on the amount of square footage per pound of bird or per bird in the flock (7 C.F.R. 205.241(c)(2)).

USDA received roughly 40,000 public comments on the regulation and states that 94% of comments and petitions received support the rule. USDA claims that the benefits of the 2023 final rule will ensure more consistent livestock and poultry production and certification practices, align *USDA Organic* livestock and poultry practices with consumer expectations, help maintain consumer and producer trust in the *USDA Organic* label, and promote fair competition among producers. USDA’s 2017 rulemaking docket details NOP’s long-standing emphasis on animal welfare issues, including outdoor access for organic livestock and poultry, dating back to the early 2000s.

USDA reported 3,588 livestock and poultry farms producing \$2.9 billion in organic livestock and poultry products in 2021. USDA’s impact analysis anticipates that the regulation could impact 1,015 organic egg producers and 433 organic broiler operations, increasing production costs (including the temporary economic welfare loss) for poultry operations between \$47.1 million and \$49.0 million

annually. USDA claims these costs would be outweighed by estimated benefits largely based on assumptions of U.S. consumers’ willingness to pay higher prices for USDA-certified organic products that meet these amended regulations. USDA claims the rule “will not add significant costs to other organic livestock sectors” since the rule seeks to “codify existing industry practices and minimize variation in certifier interpretation of organic livestock welfare requirements.” (See USDA’s *Regulatory Impact Analysis*.) Organic producers, however, could incur costs to meet the rule’s reporting and recordkeeping requirements.

## Overview of USDA’s 2023 OLPS Final Rule

### Livestock Care and Production Practices

- Ensure physical alterations are performed only for identification purposes or for the safety of the animal
- Prohibit certain physical alterations (e.g., debeaking, induced molting); limit others (e.g., needle teeth clipping)
- Identify and record treatment of sick and injured animals and provide treatment and preventative healthcare

### Mammalian and Nonavian Livestock Living Conditions

- Implement living conditions requirements now split by species type (i.e., distinct regulations for different species)
- Require shelter space for animals to lie down, stand up, fully stretch limbs, and express normal behavior patterns
- Require bedding and resting areas sufficiently large and comfortable to keep animals healthy, clean, and dry
- Require unrestricted year-round outdoor access; livestock may be temporarily confined in specific circumstances and for short periods
- Implement specific requirements for swine—swine must be in group housing and always have access to rooting material; flat decks and piglet cages are prohibited

### Avian Living Conditions

- Implement specific requirements for avian living conditions
- Accommodate the health and natural behavior of poultry
- Require year-round outdoor access, and prohibit continuous total confinement
- Require adequate outdoor space suitable to species, stage of life, climate, and environment
- Distribute and size bird houses to ensure outdoor access—provide one linear foot of exit area for every 360 birds on poultry houses’ exit doors
- Monitor ammonia levels weekly, and maintain below 20 parts per million (ppm), not to exceed 25ppm

### Transportation and Slaughter

- Ensure animals are fit for transport and able to walk
- Require seasonally appropriate mode of transport to protect livestock from cold or heat stress
- Describe how organic management and animal welfare will be maintained for transport exceeding eight hours
- Adhere to USDA humane slaughter standards

**Source:** CRS from USDA’s Informational Webinar (November 16, 2023) and final rule (88 *Federal Register* 75394, November 2, 2023).

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