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USDA-AMS-NOP
Room 2646-So., Ag Stop 0268
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Washington, DC 20250


The National Cattlemen’s Beef Association (NCBA) appreciates the opportunity to comment on the United States Department of Agriculture’s (USDA), Agriculture Marketing Service’s (AMS) National Organic Program’s (NOP) National Organic Program; Organic Livestock and Poultry Practices proposed rule. NCBA has represented America’s cattlemen and women since 1898, preserving the heritage and strength of the industry through education and public policy. As the largest and oldest national association of cattle producers, NCBA represents a very diverse beef industry that strives to meet the demands in emerging markets and increase demand for beef.

NCBA is very concerned about the NOP Livestock and Poultry Practices proposed rule and urges USDA to pull this rule and start over with all agriculture stakeholders involved. Organic programs are, quite simply, marketing programs. There is no solid, fact-based evidence that shows organic foods being any better than conventionally raised foods. There are consumers who wish to purchase organic foods, and we support their right to make that choice. We also support the right of organic producers to fulfil that consumer demand. We don’t, however, support USDA taking the NOP beyond its initial intent as proposed by this rule.

First, we question as to whether USDA has the authority to implement regulations which prescribe practices regarding animal welfare, especially since those practices lack the explanation or support for any animal health benefits. The Organic Foods Production Act of 1990 (OFPA), 7 U.S.C. §§ 6501-6522, includes provisions in Section 2110 regarding “Animal Production Practices and Materials” (7 U.S.C § 6509). Subsection (c) of Section 2110 describes the practices required in an “organic plan.” Subsection (c) states:
(c) Practices – For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm –

(1) shall feed such livestock organically produced feed that meets the requirements of this title;

(2) shall not use the following feed –
   (A) plastic pellets for roughage;
   (B) manure refeeding; or
   (C) feed formulas containing urea; and

(3) shall not use growth promoters and hormones on such livestock, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock.

There is absolutely no mention of animal welfare practices or living conditions being a required part of an “organic plan.” As such, we believe that this proposed rule goes far beyond the statutory authority provided USDA in regards to organic programs.

Furthermore, in section 2105 of the OFPA titled “National Standards for Organic Production,” Congress specifically identified those practices that must be utilized to qualify for the “organic” label. To qualify as “organic” livestock, the animals must be produced without the use of synthetic chemicals, and they must be produced in compliance with an organic plan as laid out above in Subsection (c). For a second time in the statute, no mention is made in regards to animal welfare standards or living condition requirement.

Regardless of previous AMS actions to address animal health, welfare, and living conditions, we believe that AMS has failed to define the need to add these provisions to the NOP. Instead, this proposal sends a clear signal to animal agriculture that an activist agenda is driving this more than any attempt to clarify a consumer’s perception of what “organic” means. Perceived consumer confusion about “organic” is not solved by adding more provisions or requirements. Consumer confusion is solved by the organic industry actively working to educate their consumers. Obviously, their attempts have failed and this rule is meant to help them.

Rather than help the consumer, this rule vilifies conventionally raised livestock. America’s cattle producers pride themselves in taking care of the health and welfare of their animals. That care and commitment has led to the development, implementation, and success of the Beef Quality Assurance (BQA) program. BQA provides guidelines and recommendations for producing all cattle, regardless of how they are marketed. As we stated above, organic is simply a marketing program. Programs like BQA have been put in place by experts in animal science, and they utilize industry-accepted and peer-reviewed science to set the program guidelines. If NOP is looking to provide guidance to organic producers, they should suggest that they be BQA certified.
As consumer questions about the organic program have obviously motivated this proposed rule, NCBA is concerned that USDA condones the notion that organic production should be viewed as a better production method. Any effort by a Federal department or agency which gives the impression that conventional production of food is not of the same quality as organic production is unacceptable. While USDA may not have gone into this rulemaking with that intent, we all know that perception is reality, and this rule gives the perception that conventional food production does not have the same commitment to animal welfare or quality.

More specifically, NCBA is concerned about the following sections of the proposed rule:

§205.238(a)(7) – AMS proposes a new section which states “All surgical procedures necessary to treat an illness shall be undertaken in a manner that employs best management practices in order to minimize pain, stress, and suffering, with the use of appropriate and allowed anesthetics, analgesics, and sedatives.” Pain management is a serious issue, and the cattle industry has spent a lot of time and resources working with veterinarians and other animal scientists to conduct research on ways to limit pain and discomfort for our cattle. Many of these practices are used during surgical procedures conducted by a veterinarian. We are concerned, however, that this provision could be expanded or interpreted to cover routine production practices, not just surgical procedures necessary to treat an illness. There are currently no FDA-approved analgesics for use in the cattle industry, but our industry has put in place best management practices through our Beef Quality Assurance (BQA) program. Who will develop the best management practices as proposed in this rule? NCBA recommends that USDA-AMS encourage producers to become BQA certified in order to best manage pain in their cattle. Who will determine which anaesthetics, analgesics and sedatives, if any, are appropriate? This question needs to be addressed by animal scientists and veterinarians. This is a scientific decision, not a marketing decision. It must be made clear that this section only applies to clinical procedures conducted by a veterinarian, and that any action on approved BMPs or pain management products be decided by veterinarians and animal scientists with experience in the field of cattle production.

§205.238(c)(3) – AMS proposes a revision to this section which states that organic producers cannot “Administer hormones for growth promotion, production, or reproduction.” Again, we are concerned that provisions like this cast a negative connotation on the use of this approved and tested technology. While this is a revision, our concern had been associated with the original language as well. USDA must be careful not to inadvertently condemn the use of technology which has been utilized to produce high quality food.
AMS proposes a revision which states “Breeding: Except, that, animals shall not be confined any longer than necessary to perform the natural or artificial insemination. Animals may not be confined to observe estrus; and…” NCBA questions the reasoning behind prohibiting animals from being confined to observe estrus. Again, USDA fails to provide any rationale for their action. This seems arbitrary in nature given that confinement, if used, to observe estrus would be shorter in length than the time to breed the animal.

AMS proposes a revision which ends with the sentence “Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.” Other provisions of the NOP also infer that finishing cattle in feedlots is not allowed in organic production. §205.239(d), however, proposes a revision which states “Ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season for the geographical location: Except, that, yards, feeding pads, or feedlots may be used to provide finish feeding rations. During the finishing period, ruminant slaughter stock shall be exempt from the minimum 30 percent DMI requirement from grazing. Yards, feeding pads, or feedlots used to provide finish feeding rations shall be large enough to allow all ruminant slaughter stock occupying the yard, feeding pad, or feedlot to feed without competition for food. The finishing period shall not exceed one-fifth (1/5) of the animal’s total life or 120 days, whichever is shorter.”

NCBA believes these provisions are contradictory. We need a firm decision from AMS on whether or not organic cattle can be finished in feedlots. The requirements under the “Animal Production Practices and Materials” discussed above can be utilized in a cattle feedlot. We believe that organic cattle should be allowed to be finished in a feedlot, and we ask AMS to clarify this.

AMS proposes a new requirement that “Certified organic livestock must be clearly identified as organic and transported in pens within the livestock trailer clearly labelled for organic use and be contained in those pens for the duration of the trip.” NCBA believes that this is an overburdensome requirement with no clear benefit or need. Cattle are meticulously identified during transportation today, and the addition of this requirement only adds more red-tape and delay to the process. Delay means animals stay on a trailer even longer.

AMS proposes a new requirement that “Adequate and season-appropriate ventilation is required for all livestock trailers, shipping containers and any other mode of transportation used to protect animals against cold and heat stresses.”
Again, NCBA believe this statement infers that our industry does not protect our cattle against weather stresses during transportation. Nothing could be further from the truth. The National Beef Quality Assurance Guide for Cattle Transporters clearly lays out the requirements to make sure cattle are kept as comfortable as possible during transportation. We do not believe this section is required since our industry is already utilizing procedures to address heat and cold stress, along with many other transportation concerns.

Overall, NCBA believes this proposed rule goes far beyond what is needed, required, or statutorily allowed for the NOP. We believe that USDA has bowed to the whims and demands of the animal activists rather than talking to the industry as a whole to see what is best for the program. We believe in a producer’s right to produce organic beef. We believe that consumers deserve a choice if they so desire. We also want to re-assert that the NOP is a marketing program, not an animal health, welfare, or safety program. These proposed revisions perpetuate certain biases that organic is better than conventional agriculture. That is simply not true, and NCBA does not condone any action by USDA which is based on agendas rather than sound animal production practices. We have identified several of those provisions here in our comments which are not substantiated nor justified.

We request that USDA-AMS pull this rule and start the process over again. All producers, not just organic producers, should be a part of that conversation to make sure any proposal is justified, sound, and useful to producers and consumers alike.

Sincerely,

Tracy Brunner
NCBA President & Cattle Producer from Ramona, Kansas