

Dear Senators HARTGEN, Nichols, Semmelroth, and
Representatives ANDRUS, Raymond, Mathias:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Agriculture:

IDAPA 02.06.33 - Organic Food Products Rules - Proposed Rule (Docket No. 02-0633-2401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 12/02/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/30/2024.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondoff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Agricultural Affairs Committee and the House Agricultural Affairs Committee

FROM: Legislative Drafting Attorney - Alli Olson

DATE: November 13, 2024

SUBJECT: Department of Agriculture

IDAPA 02.06.33 - Organic Food Products Rules - Proposed Rule (Docket No. 02-0633-2401)

Summary and Stated Reasons for the Rule

The Idaho Department of Agriculture submits notice of proposed rulemaking for the Organic Food Products Rules, IDAPA 02.06.33. The Department states the proposed rule updates the publication date to the January 2024 version for the Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations, which contain the specifications, tolerances, and other technical requirements for maintaining organic accreditation.

Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was not conducted because the changes are to the publication dates of documents that were already incorporated into the rules. The Department also states that there are no associated fees nor fiscal impact to the General Fund.

Statutory Authority

The Department of Agriculture appears to have the authority to promulgate this rule pursuant to Section 22-1103, Idaho Code.

cc: Department of Agriculture
Lloyd Knight

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

Idaho State Department of Agriculture
IDAPA 02.06.33 - Rules Governing Organic Food Products Rules
Proposed Rulemaking - Docket No. 02-0633-2401

IDAPA 02.06.33 incorporates by reference the Code of Federal (CFR) Regulations National Organic Program (NOP) Regulations.

IDAPA 02.06.33 {...} 004. The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (January 2, 2024), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b885492294d6e01d334ae6076da2c3c2&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7>. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712.

Listed below is an overview of changes to NOP regulations.

Summary of Changes

Final rule change effective 1/2/2024 – Organic Livestock and Poultry Standards		
Section	Former Text	New Text
205.2	<i>Added.</i>	<i>Beak trimming.</i> The removal of not more than one-quarter to one-third of the upper beak or the removal of one-quarter to one-third of both the upper and lower beaks of a bird in order to control injurious pecking and cannibalism.
205.2	<i>Added.</i>	<i>Caponization.</i> Castration of chickens, turkeys, pheasants, and other avian species.
205.2	<i>Added.</i>	<i>Cattle wattling.</i> The surgical separation of two layers of the skin from the connective tissue for along a 2-to-4-inch path on the dewlap, neck, or shoulders used for ownership identification.
205.2	<i>Added.</i>	<i>De-beaking.</i> The removal of more than one-third of the upper beak or removal of more than

		one-third of both the upper and lower beaks of a bird.
205.2	<i>Added.</i>	<i>De-snooding.</i> The removal of the turkey snood (a fleshy protuberance on the forehead of male turkeys).
205.2	<i>Added.</i>	<i>Dubbing.</i> The removal of poultry combs and wattles.
205.2	<i>Added.</i>	<p><i>Indoors or indoor space.</i> The space inside of an enclosed building or housing structure available to livestock. Indoor space for avian species includes, but is not limited to:</p> <p>(1) <i>Mobile housing.</i> A mobile structure for avian species with solid or perforated flooring that is moved regularly and allows birds to continuously access areas outside the structure during daytime hours.</p> <p>(2) <i>Aviary housing.</i> A fixed structure for avian species that has multiple tiers or levels.</p> <p>(3) <i>Slatted/mesh floor housing.</i> A fixed structure for avian species that has both: a slatted floor where perches, feed, and water are provided over a pit or belt for manure collection; and litter covering the remaining solid floor.</p> <p>(4) <i>Floor litter housing.</i> A fixed structure for avian species that has absorbent litter covering the entire floor.</p>
205.2	<i>Added.</i>	<i>Induced molting.</i> Molting that is artificially initiated.
205.2	<i>Added.</i>	<i>Mulesing.</i> The removal of skin from the buttocks of sheep, approximately 2 to 4 inches wide and running away from the anus to the hock to prevent fly strike.
205.2	<i>Added.</i>	<i>Non-ambulatory.</i> As defined in 9 CFR 309.2(b) .
205.2	<i>Added.</i>	<p><i>Outdoors or outdoor space.</i> Any area outside an enclosed building or enclosed housing structure. Enclosed housing structures with open sides (e.g., open-sided freestall barns) are not to be considered outdoors or outdoor space. Outdoor space for avian species includes, but is not limited to:</p> <p>(1) <i>Pasture pens (avian).</i> Floorless pens, with full or partial roofing, that are moved regularly, provide direct access to soil and vegetation, and allow birds to express natural behaviors.</p>

		(2) Shade structures that are not enclosed.
205.2	<i>Added.</i>	<i>Perch.</i> A rod- or branch-type structure above the floor or ground that accommodates roosting and allows birds to utilize vertical space.
205.2	<i>Added.</i>	<i>Pullets.</i> Female chickens or other avian species being raised for egg production that have not yet started to lay eggs.
205.2	<i>Added.</i>	<i>Religious (or ritual) slaughter.</i> Slaughtering in accordance with the ritual requirements of any religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughtering.
205.2	<i>Added.</i>	<i>Stocking density.</i> The liveweight or number of animals on a given area or unit of land.
205.2	<i>Added.</i>	<i>Toe clipping.</i> The removal of the nail and distal joint of the back two toes of a bird.
205.2	<i>Added.</i>	<i>Vegetation.</i> Living plant matter that is anchored in the soil by roots and provides ground cover.
205.238	<p><i>Livestock health care practice standard.</i></p> <p><i>(a) The producer must establish and maintain preventive livestock health care practices, including:</i></p> <p><i>(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;</i></p> <p><i>(2) Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants);</i></p> <p><i>(3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites;</i></p> <p><i>(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;</i></p>	<p>Livestock care and production practices standard.</p> <p><i>(a) Preventive health care practices.</i> The producer must establish and maintain preventive health care practices, including:</p> <p>(1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites.</p> <p>(2) Provision of a feed ration sufficient to meet nutritional requirements of the animal, including vitamins, minerals, proteins and/or amino acids, fatty acids, energy sources, and fiber (ruminants).</p> <p>(3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites.</p> <p>(4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species.</p> <p>(5) Physical alterations may be performed for identification purposes or the safety of the</p>

<p><i>(5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and</i></p> <p><i>(6) Administration of vaccines and other veterinary biologics.</i></p> <p><i>(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer synthetic medications: Provided, That, such medications are allowed under §205.603. Parasiticides allowed under §205.603 may be used on:</i></p> <p><i>(1) Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are to be sold, labeled, or represented as organically produced; and</i></p> <p><i>(2) Dairy animals, as allowed under § 205.603.</i></p> <p><i>(3) Fiber bearing animals, as allowed under § 205.603.</i></p> <p><i>(c) The producer of an organic livestock operation must not:</i></p> <p><i>(1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under §205.603, or any substance that contains a nonsynthetic substance prohibited in §205.604.</i></p> <p><i>(2) Administer any animal drug, other than vaccinations, in the absence of illness;</i></p> <p><i>(3) Administer hormones for growth promotion;</i></p> <p><i>(4) Administer synthetic parasiticides on a routine basis;</i></p>	<p>animal. Physical alterations must be performed: at a young age for the species, in a manner that minimizes stress and pain, and by a person that is capable of performing the physical alteration in a manner that minimizes stress and pain.</p> <p>(i) The following practices may not be routinely used and must be used only with documentation that alternative methods to prevent harm failed: needle teeth clipping (no more than top one-third of the tooth) in pigs and tail docking in pigs.</p> <p>(ii) The following practices are prohibited: de-beaking, de-snooding, caaponization, dubbing, toe clipping of chickens, toe clipping of turkeys unless with infra-red at hatchery, beak trimming after 10 days of age, tail docking of cattle, wattling of cattle, face branding of cattle, tail docking of sheep shorter than the distal end of the caudal fold, and mulesing of sheep.</p> <p>(6) Administration of vaccines and other veterinary biologics.</p> <p>(7) All surgical procedures necessary to treat an illness or injury shall be undertaken in a manner that employs best management practices to promote the animal's wellbeing and to minimize pain, stress, and suffering, with the use of allowed anesthetics, analgesics, and sedatives, as appropriate.</p> <p>(8) Monitoring of lameness; timely and appropriate treatment of lameness for the species; and mitigation of the causes of lameness.</p> <p><i>(b) Preventive medicines and parasiticides.</i> Producers may administer medications that are allowed under § 205.603 of this part to alleviate pain or suffering, and when preventive practices and veterinary biologics are inadequate to prevent sickness. Parasiticides allowed under § 205.603 of this part may be used on:</p> <p>(1) Breeder stock, when used prior to the last third of gestation but not during lactation for</p>
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	<p><i>(5) Administer synthetic parasiticides to slaughter stock;</i></p> <p><i>(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; or</i></p> <p><i>(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited substance must be clearly identified and shall not be sold, labeled, or represented as organically produced.</i></p>	<p>progeny that are to be sold, labeled, or represented as organically produced; and</p> <p>(2) Dairy animals, as allowed under § 205.603 of this part.</p> <p>(3) Fiber bearing animals, as allowed under § 205.603 of this part.</p> <p>(c) <i>Prohibited practices.</i> An organic livestock operation must not:</p> <p>(1) Sell, label, or represent as organic any animal or product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under § 205.603 of this part, or any substance that contains a non-synthetic substance prohibited in § 205.604 of this part. Milk from animals undergoing treatment with synthetic substances that are allowed under § 205.603 of this part but have associated withdrawal periods cannot be sold, labeled, or represented as organic during the withdrawal period but may be fed to calves on the same operation. Milk from animals undergoing treatment with prohibited substances cannot be sold, labeled, or represented as organic or fed to organic livestock.</p> <p>(2) Administer synthetic medications unless:</p> <p>(i) In the presence of illness or to alleviate pain and suffering, and</p> <p>(ii) That such medications are allowed under § 205.603 of this part.</p> <p>(3) Administer hormones for growth promotion, production, or reproduction, except as provided in § 205.603 of this part.</p> <p>(4) Administer synthetic parasiticides on a routine basis.</p> <p>(5) Administer synthetic parasiticides to slaughter stock.</p>
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		<p>(6) Administer animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; or</p> <p>(7) Withhold medical treatment from a sick animal in an effort to preserve its organic status. All appropriate medications must be used to restore an animal to health when methods acceptable to organic production fail. Livestock treated with a prohibited substance must be clearly identified and neither the animal nor its products shall be sold, labeled, or represented as organically produced.</p> <p>(8) Withhold individual treatment designed to minimize pain and suffering for injured, diseased, or sick animals, which may include forms of euthanasia as recommended by the American Veterinary Medical Association.</p> <p>(9) Neglect to identify and record treatment of sick and injured animals in animal health records.</p> <p>(10) Practice induced molting.</p> <p>(d) <i>Parasite control plans.</i> (1) Organic livestock operations must have comprehensive plans to minimize internal parasite problems in livestock, including preventive measures such as pasture management, fecal monitoring, and emergency measures in the event of a parasite outbreak.</p> <p>(2) [Reserved]</p> <p>(e) <i>Euthanasia.</i> (1) Organic livestock operations must have written plans for prompt, humane euthanasia for sick or injured livestock suffering from irreversible disease or injury.</p> <p>(2) The following methods of euthanasia are not permitted: suffocation; manual blow to the head by blunt instrument or manual blunt force trauma; and the use of equipment that crushes the neck, including killing pliers or Burdizzo clamps.</p> <p>(3) Following a euthanasia procedure, livestock must be carefully examined to ensure that they are dead.</p>
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<p>205.239</p>	<p><i>Livestock living conditions.</i></p> <p><i>(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions which accommodate the health and natural behavior of animals, including:</i></p> <p><i>(1) Year-round access for all animals to the outdoors, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with §§205.239(b) and (c). Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed simultaneously without crowding and without competition for food. Continuous total confinement of any animal indoors is prohibited. Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.</i></p> <p><i>(2) For all ruminants, management on pasture and daily grazing throughout the grazing season(s) to meet the requirements of §205.237, except as provided for in paragraphs (b), (c), and (d) of this section.</i></p> <p><i>(3) Appropriate clean, dry bedding. When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(iii), and, if applicable, organically handled by operations certified under this part.</i></p> <p><i>(4) Shelter designed to allow for:</i></p>	<p>Mammalian and non-avian livestock living conditions.</p> <p>(a) The producer of an organic livestock operation must establish and maintain year-round livestock living conditions, which accommodate the wellbeing and natural behavior of animals, including:</p> <p>(1) Year-round access for all animals to the outdoors, shade, shelter, exercise areas, fresh air, clean water for drinking, and direct sunlight, suitable to the species, its stage of life, the climate, and the environment: Except, that, animals may be temporarily denied access to the outdoors in accordance with paragraphs (b) and (c) of this section. Yards, feeding pads, and feedlots may be used to provide ruminants with access to the outdoors during the non-grazing season and supplemental feeding during the grazing season. Yards, feeding pads, and feedlots shall be large enough to allow all ruminant livestock occupying the yard, feeding pad, or feedlot to feed without competition for food. Continuous total confinement of any animal indoors is prohibited. Continuous total confinement of ruminants in yards, feeding pads, and feedlots is prohibited.</p> <p>(2) For all ruminants, management on pasture and daily grazing throughout the grazing season(s) to meet the requirements of § 205.237 of this part, except as provided for in paragraphs (b), (c), and (d) of this section.</p> <p>(3) Appropriate clean, dry bedding. When roughages are used as bedding, they shall have been organically produced in accordance with this part by an operation certified under this part, except as provided in § 205.236(a)(2)(iii) of this part, and, if applicable, organically handled by operations certified under this part.</p> <p>(4) Shelter designed to allow for:</p> <p>(i) Over a 24-hour period, sufficient space and freedom to lie down, turn around, stand up, fully stretch their limbs, and express normal patterns of behavior;</p>
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<p><i>(i) Natural maintenance, comfort behaviors, and opportunity to exercise;</i></p> <p><i>(ii) Temperature level, ventilation, and air circulation suitable to the species; and</i></p> <p><i>(iii) Reduction of potential for livestock injury;</i></p> <p><i>(5) The use of yards, feeding pads, feedlots and laneways that shall be well-drained, kept in good condition (including frequent removal of wastes), and managed to prevent runoff of wastes and contaminated waters to adjoining or nearby surface water and across property boundaries.</i></p> <p><i>(b) The producer of an organic livestock operation may provide temporary confinement or shelter for an animal because of:</i></p> <p><i>(1) Inclement weather;</i></p> <p><i>(2) The animal's stage of life: Except, that lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;</i></p> <p><i>(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;</i></p> <p><i>(4) Risk to soil or water quality;</i></p> <p><i>(5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);</i></p> <p><i>(6) Sorting or shipping animals and livestock sales: Provided, that, the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;</i></p> <p><i>(7) Breeding: Except, that, bred animals shall not be denied access to the outdoors</i></p>	<p>(ii) Temperature level, ventilation, and air circulation suitable to the species;</p> <p>(iii) Reduction of potential for livestock injury; and</p> <p>(iv) Indoor housing must have areas for bedding and resting that are sufficiently large, solidly built, and comfortable so that animals are kept clean and dry, as appropriate for the species, and free of lesions.</p> <p>(5) The use of yards, feeding pads, feedlots and laneways that shall be well-drained, kept in good condition (including frequent removal of wastes), and managed to prevent runoff of wastes and contaminated waters to adjoining or nearby surface water and across property boundaries.</p> <p>(6) Housing, pens, runs, equipment, and utensils shall be properly cleaned and disinfected as needed to prevent cross-infection and build-up of disease-carrying organisms.</p> <p>(7) Dairy young stock may be housed in individual pens until completion of the weaning process, provided that they have enough room to turn around, lie down, stretch out when lying down, get up, rest, and groom themselves; individual animal pens shall be designed and located so that each animal can see, smell, and hear other animals.</p> <p>(8) Swine must be housed in a group, except:</p> <p>(i) Sows may be housed individually at farrowing and during the suckling period; gestation and farrowing crates are prohibited;</p> <p>(ii) Boars; and</p> <p>(iii) Swine with multiple documented instances of aggression or for recovery from an illness.</p> <p>(9) Piglets shall not be kept on flat decks or in piglet cages.</p>
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	<p><i>and, once bred, ruminants shall not be denied access to pasture during the grazing season; or</i></p> <p><i>(8) 4-H, Future Farmers of America and other youth projects, for no more than one week prior to a fair or other demonstration, through the event and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event.</i></p> <p><i>(c) The producer of an organic livestock operation may, in addition to the times permitted under §205.239(b), temporarily deny a ruminant animal pasture or outdoor access under the following conditions:</i></p> <p><i>(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;</i></p> <p><i>(2) In the case of newborn dairy cattle for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Provided, That, an animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;</i></p> <p><i>(3) In the case of fiber bearing animals, for short periods for shearing; and</i></p> <p><i>(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration</i></p>	<p>(10) For swine, rooting materials must be provided, except during the farrowing and suckling period.</p> <p>(11) In confined housing with stalls for mammalian livestock, enough stalls must be present to provide for the natural behaviors of the animals. A cage must not be called a stall. For group-housed swine, the number of individual feeding stalls may be less than the number of animals, as long as all animals are fed routinely over a 24-hour period. For group-housed cattle, bedded packs, compost packs, tie-stalls, free-stalls, and stanchion barns are all acceptable housing as part of an overall organic system plan.</p> <p>(12) Outdoor space must be provided year-round. When the outdoor space includes soil, vegetative cover must be maintained as appropriate for the season, climate, geography, species of livestock, and stage of production.</p> <p>(b) The producer of an organic livestock operation may provide temporary confinement or shelter for an animal because of:</p> <p>(1) Inclement weather;</p> <p>(2) The animal's stage of life, however, lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this part;</p> <p>(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized;</p> <p>(4) Risk to soil or water quality;</p> <p>(5) Preventive healthcare procedures or for the treatment of illness or injury (neither the various life stages nor lactation is an illness or injury);</p> <p>(6) Sorting or shipping animals and livestock sales, provided that the animals shall be maintained under continuous organic management, including organic feed, throughout the extent of their allowed confinement;</p>
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	<p><i>practices cannot be used to deny dairy animals pasture.</i></p> <p><i>(d) 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 feed lot to feed simultaneously without crowding and 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.</i></p> <p><i>(e) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that does not put soil or water quality at risk.</i></p>	<p>(7) Breeding: Except, that, animals shall not be confined any longer than necessary for natural breeding or to perform artificial insemination. Animals may not be confined to observe estrus, and animals may not be confined after breeding to confirm pregnancy; and</p> <p>(8) 4–H, National FFA Organization, and other youth projects, for no more than one week prior to a fair or other demonstration, through the event, and up to 24 hours after the animals have arrived home at the conclusion of the event. These animals must have been maintained under continuous organic management, including organic feed, during the extent of their allowed confinement for the event. Notwithstanding the requirements in paragraph (b)(6) of this section, facilities where 4–H, National FFA Organization, and other youth events are held are not required to be certified organic for the participating animals to be sold as organic, provided all other organic management practices are followed.</p> <p>(c) The producer of an organic livestock operation may, in addition to the times permitted under paragraph (b) of this section, temporarily deny a ruminant animal pasture or outdoor access under the following conditions:</p> <p>(1) One week at the end of a lactation for dry off (for denial of access to pasture only), three weeks prior to parturition (birthing), parturition, and up to one week after parturition;</p> <p>(2) In the case of newborn dairy cattle, for up to six months, after which they must be on pasture during the grazing season and may no longer be individually housed: Except, That, any animal shall not be confined or tethered in a way that prevents the animal from lying down, standing up, fully extending its limbs, and moving about freely;</p> <p>(3) In the case of fiber bearing animals, for short periods for shearing; and</p> <p>(4) In the case of dairy animals, for short periods daily for milking. Milking must be scheduled in a manner to ensure sufficient</p>
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		<p>grazing time to provide each animal with an average of at least 30 percent DMI from grazing throughout the grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.</p> <p>(d) 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. 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 feed lot to feed without crowding and 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.</p> <p>(e) The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that does not put soil or water quality at risk.</p>
205.241	<i>Added.</i>	<p>Avian living conditions.</p> <p>(a) <i>Avian year-round living conditions.</i> The producer of an organic poultry operation must establish and maintain year-round poultry living conditions that accommodate the health and natural behavior of poultry, including: year-round access to outdoors; shade; shelter; exercise areas; fresh air; direct sunlight; clean water for drinking; materials for dust bathing; and adequate outdoor space to escape aggressive behaviors suitable to the species, its stage of life, the climate, and environment. Poultry may be temporarily denied access to the outdoors in accordance with paragraph (d) of this section. Continuous total confinement of poultry indoors is prohibited.</p>

		<p>(b) <i>Indoor space requirements.</i> (1) Poultry housing must be sufficiently spacious to allow all birds to move freely, stretch both wings simultaneously, stand normally, and engage in natural behaviors.</p> <p>(2) Producers must monitor ammonia levels at least weekly by taking measurements at the height of the birds' heads and implement practices to maintain ammonia levels below 20 ppm. When ammonia levels exceed 20 ppm, producers must implement additional practices and additional monitoring to reduce ammonia levels below 20 ppm. Ammonia levels must not exceed 25 ppm.</p> <p>(3) For layers and all other fully feathered birds, artificial light may be used to prolong the day length, to provide up to 16 hours of continuous light per 24-hour period (<i>i.e.</i>, minimum of 8 hours of continuous darkness per 24-hour period). Artificial light intensity should be lowered gradually to encourage hens to move to perches or settle for the night. Artificial light spectrum may not be manipulated to increase feed intake and growth rate.</p> <p>(4) Exit areas—poultry houses must have at least 1 linear foot of exit area for every 360 birds, measured across the base of the exit, but no less than one linear foot of exit area for flocks with fewer than 360 birds. Exit areas must be appropriately distributed and sized to ensure that all birds have ready access to the outdoors;</p> <p>(i) If exit areas are not provided at a ratio of at least 1 linear foot per 360 birds, a certifier may approve practices that provide less than 1 linear foot per 360 birds only if an operation describes its practices (in the organic system plan) and demonstrates that ready access to the outdoors is provided for all birds;</p> <p>(ii) Producers subject to requirements in 21 CFR part 118—Production, Storage, and Transportation of Shell Eggs, must take steps to prevent stray poultry, wild birds, cats, and other animals from entering poultry houses.</p>
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		<p>(5) Perches—for layers (<i>Gallus gallus</i>), six inches of perch space must be provided per bird. Perch space may include the alighting rail in front of the nest boxes. All layers must be able to perch at the same time except for aviary housing, in which 55 percent of layers must be able to perch at the same time. Floors in slatted/mesh floor housing cannot be counted as perch space.</p> <p>(6) All birds must have access to areas in the house that allow for scratching and dust bathing, except, that mobile housing may meet this requirement when paired with outdoor space that provides birds with areas for scratching and dust bathing. Litter must be provided and maintained in a dry condition in the house.</p> <p>(7) Non-mobile houses with slatted/mesh floors must have 15 percent minimum of solid floor area available with sufficient litter available for dust baths so that birds may freely dust bathe without crowding.</p> <p>(8) For layers (<i>Gallus gallus</i>), indoor stocking density must meet one or both of the following rates, expressed in different terms.</p> <p>(i) Mobile housing: not to exceed 4.5 pounds per square foot; or, alternatively, a rate of at least 1.5 square feet per bird will comply with the requirement.</p> <p>(ii) Aviary housing: not to exceed 4.5 pounds per square foot; or, alternatively, a rate of at least 1.5 square feet per bird will comply with the requirement.</p> <p>(iii) Slatted/mesh floor housing: not to exceed 3.75 pounds per square foot; or, alternatively, a rate of at least 1.8 square feet per bird will comply with the requirement.</p> <p>(iv) Floor litter housing: not to exceed 3.0 pounds per square foot; or, alternatively, a rate of at least 2.2 square feet per bird will comply with the requirement.</p> <p>(v) Other housing: not to exceed 2.25 pounds per square foot; or, alternatively, a rate of at</p>
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		<p>least 3.0 square feet per bird will comply with the requirement.</p> <p>(9) For pullets (<i>Gallus gallus</i>), indoor stocking density must not exceed 3.0 pounds of bird per square foot; or, alternatively, a rate of at least 1.7 square feet per bird will comply with the requirement.</p> <p>(10) For broilers (<i>Gallus gallus</i>), indoor stocking density must not exceed 5.0 pounds of bird per square foot; or, alternatively, a rate of at least 2.0 square feet per bird will comply with the requirement.</p> <p>(11) Indoor space includes flat areas available to birds, excluding nest boxes.</p> <p>(12) Indoor space may include enclosed porches and lean-to type structures (<i>e.g.</i>, screened in, roofed) as long as the birds always have access to the space, including during temporary confinement events. If birds do not have continuous access to the porch during temporary confinement events, this space must not be considered indoors.</p> <p>(c) <i>Outdoor space requirements.</i> (1) Access to outdoor space and door spacing must be designed to promote and encourage outside access for all birds on a daily basis. Producers must provide access to the outdoors at an early age to encourage (<i>i.e.</i>, train) birds to go outdoors. Birds may be temporarily denied access to the outdoors in accordance with paragraph (d) of this section.</p> <p>(2) At least 75 percent of outdoor space must be soil. Outdoor space with soil must include vegetative cover appropriate for the season, climate, geography, species of livestock, and stage of production. Vegetative cover must be maintained in a manner that does not provide harborage for rodents and other pests.</p> <p>(3) Shade may be provided by structures, trees, or other objects in the outdoor area.</p> <p>(4) For layers (<i>Gallus gallus</i>), outdoor space must be provided at a rate of no less than one</p>
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		<p>square foot for every 2.25 pounds of bird in the flock; or, alternatively, a rate of at least 3.0 square feet per bird will comply with the requirement.</p> <p>(5) For pullets (<i>Gallus gallus</i>), outdoor space must be provided at a rate of no less than one square foot for every 3.0 pounds of bird in the flock; or, alternatively, a rate of at least 1.7 square feet per bird will comply with the requirement.</p> <p>(6) For broilers (<i>Gallus gallus</i>), outdoor space must be provided at a rate of no less than one square foot for every 5.0 pounds of bird in the flock; or, alternatively, a rate of at least 2.0 square feet per bird will comply with the requirement.</p> <p>(7) Outdoor space may include structures that are not enclosed (<i>e.g.</i>, with roof but no walls) and allow birds to freely access other outdoor space.</p> <p>(d) <i>Temporary confinement.</i> The producer of an organic poultry operation may temporarily confine birds. Confinement must be recorded. Operations may temporarily confine birds when one of the following circumstances exists:</p> <p>(1) Inclement weather, including when air temperatures are under 32 degrees F or above 90 degrees F.</p> <p>(2) The animal's stage of life, including:</p> <p>(i) The first 4 weeks of life for broilers (<i>Gallus gallus</i>);</p> <p>(ii) The first 16 weeks of life for pullets (<i>Gallus gallus</i>); and</p> <p>(iii) Until fully feathered for bird species other than <i>Gallus gallus</i>.</p> <p>(3) Conditions under which the health, safety, or well-being of the animal could be jeopardized.</p>
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		<p>(4) Risk to soil or water quality.</p> <p>(5) Preventive healthcare procedures or for the treatment of illness or injury (neither various life stages nor egg laying is an illness or injury).</p> <p>(6) Sorting or shipping birds and poultry sales, provided that the birds are maintained under continuous organic management, throughout the extent of their allowed confinement.</p> <p>(7) For nest box training, provided that birds shall not be confined any longer than required to establish the proper behavior. Confinement for nest box training must not exceed five weeks over the life of the bird.</p> <p>(8) For 4–H, National FFA Organization, and other youth projects, provided that temporary confinement for no more than one week prior to a fair or other demonstration, through the event, and up to 24 hours after the birds have arrived home at the conclusion of the event. During temporary confinement, birds must be under continuous organic management, including organic feed, for the duration of confinement. Notwithstanding the requirements in paragraph (d)(6) of this section, facilities where 4–H, National FFA Organization, and other youth events are held are not required to be certified organic for the participating birds to be sold as organic, provided all other organic management practices are followed.</p> <p>(e) <i>Manure management.</i> The producer of an organic poultry operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms. The producer must also optimize recycling of nutrients and must manage outdoor access areas in a manner that does not put soil or water quality at risk.</p>
205.242	<i>Added.</i>	<p>Transport and slaughter.</p> <p>(a) <i>Transportation.</i> (1) Certified organic livestock must be clearly identified as organic, and this identity must be traceable for the duration of transport.</p>

		<p>(2) All livestock must be fit for transport to buyers, auction or slaughter facilities.</p> <p>(i) Calves must have a dry navel cord and be able to stand and walk without human assistance.</p> <p>(ii) Seriously crippled and non-ambulatory animals must not be transported for sale or slaughter. Such animals may be medically treated or euthanized.</p> <p>(3) 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.</p> <p>(4) During any transport and prior to slaughter, bedding must be provided on trailer floors and in holding pens, as needed, to keep livestock clean, dry, and comfortable. Use of bedding must be appropriate to the species and type of transport. Bedding is not required in poultry crates. When roughages are used for bedding, they must be certified organic.</p> <p>(5) For transport that exceeds eight hours, measured from the time all animals are loaded onto a vehicle until the vehicle arrives at its final destination, the operation must describe how organic management and animal welfare will be maintained.</p> <p>(i) The producer or handler of an organic livestock operation, who is responsible for overseeing the transport of organic livestock, must provide records to certifying agents during inspections or upon request that demonstrate that transport times for organic livestock are not detrimental to the welfare of the animals and meet the requirements of paragraph (a)(5) of this section.</p> <p>(ii) [Reserved]</p> <p>(6) Organic producers and handlers, who are responsible for overseeing the transport of organic livestock, must have emergency plans in place that adequately address possible animal</p>
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		<p>welfare problems that might occur during transport.</p> <p>(b) <i>Mammalian slaughter.</i> (1) Producers and handlers who slaughter organic livestock must be in compliance, as determined by FSIS, with the Federal Meat Inspection Act (21 U.S.C. 603(b)) and 21 U.S.C. 610(b), the regulations at 9 CFR part 313 regarding humane handling and slaughter of livestock, and the regulations of 9 CFR part 309 regarding ante-mortem inspection.</p> <p>(2) Producers and handlers who slaughter organic exotic animals must be in compliance with the Agricultural Marketing Act of 1946 (7 U.S.C. 1621, et seq.), the regulations at 9 CFR parts 313 and 352 regarding the humane handling and slaughter of exotic animals, and the regulations of 9 CFR part 309 regarding ante-mortem inspection.</p> <p>(3) Producers and handlers who slaughter organic livestock or exotic animals must provide all noncompliance records related to humane handling and slaughter issued by the controlling national, federal, or state authority and all records of subsequent corrective actions to certifying agents during inspections or upon request.</p> <p>(c) <i>Avian slaughter.</i> (1) Producers and handlers who slaughter organic poultry must be in compliance, as determined by FSIS, with the Poultry Products Inspection Act requirements (21 U.S.C. 453(g)(5)); the regulations at paragraph (v) of the definition of “<i>Adulterated</i>” in 9 CFR 381.1(b), and 9 CFR 381.90, and 381.65(b); and applicable FSIS Directives.</p> <p>(2) Producers and handlers who slaughter organic poultry must provide all noncompliance records related to the use of good commercial practices in connection with slaughter issued by the controlling national, federal, or state authority and all records of subsequent corrective actions to the certifying agent at inspection or upon request.</p>
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		<p>(3) Producers and handlers who slaughter organic poultry, but are exempt from or not covered by the requirements of the Poultry Products Inspection Act, must ensure that:</p> <p>(i) No lame birds may be shackled, hung, or carried by their legs;</p> <p>(ii) All birds shackled on a chain or automated system must be stunned prior to exsanguination, with the exception of religious slaughter; and</p> <p>(iii) All birds must be irreversibly insensible prior to being placed in the scalding tank.</p>
205.691	<i>Added.</i>	<p>Severability.</p> <p>If any provision of any subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of any subpart or the applicability thereof to other persons or circumstances shall not be affected thereby.</p> <p>Erin Morris,</p> <p>Associate Administrator, Agricultural Marketing Service.</p>

IDAPA 02 – IDAHO STATE DEPARTMENT OF AGRICULTURE

02.06.33 – ORGANIC FOOD PRODUCTS RULES

DOCKET NO. 02-0633-2401

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 22-1103, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2024.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the publication date for the Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations. This regulation contains the specifications, tolerances, and other technical requirements for maintaining organic accreditation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

There is no change in fee or charge

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000).

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are to the publication dates of documents that were already incorporated into these rules.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations was updated to the January 2, 2024 version.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(1), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following sections of the rule are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

This rule allows the agency to implement the organic certification program specifically according to the National Organic Program Regulations. Incorporating these national regulations ensures that the state program is in compliance with the federal program, to the benefit of the voluntary certification customers served by the agency.

The detailed 22-101A analysis can be found on the agency's website at www.agri.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lloyd Knight at lloyd.knight@isda.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2024.

DATED this 2nd day of October, 2024.

Lloyd Knight
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8615
Email: lloyd.knight@isda.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 02-0633-2401
(Only Those Sections With Amendments Are Shown.)

02.06.33 – ORGANIC FOOD PRODUCTS RULES

004. INCORPORATION BY REFERENCE.

The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (~~March 20, 2023~~ January 2, 2024), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at <https://www.ecfr.gov/current/title-7/subtitle-B/chapter-I/subchapter-M/part-205/subpart-G/subject-group-ECFR370552c56dd7aef>. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712. (~~7-1-24~~)