

Access to Pasture (Livestock)

Frequently Asked Questions

1. Q: What is the purpose/significance of this rule?

A: It provides certainty to consumers that organic livestock farms and ranches are pasture based systems where animals are not confined and are actively grazing pasture during the grazing season. This rule establishes clear and enforceable standards regarding access to pasture for organic livestock operations. This rule adds sufficient specificity and clarity to the organic livestock production standards which will enable producers and certifying agents to consistently implement NOP regulations. The measures within this rule will allow NOP to efficiently administer and enforce the integrity of the organic seal concerning ruminant livestock feed and living conditions.

2. Q: What are the main changes (amendments) this will bring to organic standards?

A: The Access to Pasture Rule provides clarification and specificity to the livestock feed and living conditions provisions of the NOP Regulation (Part 205) and establishes a pasture practice standard for ruminant animals in the regulation. The main amendments to the rule require producers to provide year-round access for all animals to the outdoors, establish a functioning management plan for pasture, incorporate the pasture management plan into their organic system plan (OSP), provide ruminants with pasture throughout the grazing season for their geographical location, ensure ruminants derive not less than an average of 30 percent of their dry matter intake (DMI) requirement from pasture grazed over the course of the grazing season, 120 days minimum. This rule also recognizes pasture as a crop.

3. Q: Do the provisions in this rule apply only to ruminant livestock?

A: This rule provides clarification to provisions for livestock feed and living conditions that are applicable to all livestock; however, the provisions for management on pasture, daily grazing throughout the grazing season, and pasture practice standard are for ruminant animals only.

4. Q: What are the main clarifications within this rule that apply to all livestock?

A: The rule stipulates that continuous total confinement of any animal indoors is prohibited. It also establishes that temporary confinement or shelter may be provided in order to administer preventive healthcare procedures or for the treatment of illness or injury; for sorting and shipping animals and livestock sales; for breeding; and for youth projects, such as fairs. Roughages used for bedding must be certified organic. Ionophores, a class of antibiotics, are specifically prohibited in feed and forage. The rule also clarifies that all agricultural ingredients included in the ingredients list for feed additives and supplements must be organically produced and handled.

5. Q: Why is an Access to Pasture rule needed?

A: Since the implementation of the NOP in October 2002, until the present time, organic dairy and beef animals were required to be provided with access to pasture, and the pasture had to be managed to provide feed value. However, the regulations did not specify the frequency or duration of pasture grazing or how much feed value had to be derived from pasture. In addition, the regulations allowed temporary confinement for circumstances which could be interpreted as overly permissive. Through the complaint process, we became aware of some variation in practices among a few organic dairy farms where milking animals were not obtaining feed value from pasture because their stage of production, i.e., lactation, was interpreted as an allowable condition for confinement.

In 2005, the National Organic Standards Board recommended to NOP that it establish an access to pasture standard that would require a minimum of 30 percent dry matter intake from pasture during the grazing season. The recommendation was the product of public discussion and input from numerous producers and consumers nationwide. The provisions within that recommendation form the core of the Access to Pasture final rule.

6. Q: What is organic?

A: Organic production is a system that is managed in accordance with the Organic Food Production Act of 1990 and regulations in Title 7, Part 205 of the Code of Federal Regulations 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. Q: How does organic livestock production differ from conventional livestock production?

A: The National Organic Program regulations specify requirements for livestock products to be sold, labeled or represented as organic. Organic management of livestock includes: (1) requiring organically produced livestock feed and forage, (2) prohibiting the use of antibiotics and hormones, (3) maintaining specific living conditions including access to pasture for ruminants and access to the outside, direct sunlight, fresh air, and freedom of movement for all livestock, and (4) practicing preventive health care to minimize occurrence and spread of diseases and parasites. Furthermore, organic livestock producers must develop an organic system plan, maintain production records, and undergo annual on-site inspections to verify compliance with the organic regulations.

All animal agriculture systems, whether organic or conventional, must consider the dry matter demand and nutritional requirements of the class of animal for its given stage of life. One key difference with organic animal agriculture systems is that all ruminant systems must be pasture-based (*i.e.*, actively grazing on a daily basis during the grazing season and have access to the outdoors and not be confined during the non-grazing season). Many conventional livestock systems are also pasture-based but are not required to.

8. Q: How do you plan on enforcing these new standards, and what are the penalties?

A: Ruminant livestock producers must demonstrate compliance with this final rule in their organic system plans. Producers must include a pasture management plan and the proper pasture and feed records to demonstrate compliance. An organic system plan which suggests that the operation can and is complying with the pasturing requirements must be verified by annual on-site inspections.

As with all organic operations, the certifying agents are the first line of enforcement, as these entities review organic system plans and inspect farming operations. Organic ruminant livestock operations are subject to the same sanctions policy that applies to any certified organic operations which does not demonstrate compliance. Under the NOP regulations, certifying agents and the NOP have the authority to suspend or revoke the organic certification, if the operation fails to successfully correct the noncompliance. The NOP also pursues any complaint which is submitted to the program to determine if there is a violation of the regulations.

The NOP also has the authority to issue civil penalties, \$11,000 per violation, for willful violations of the NOP regulations. Willful violations include selling, representing or labeling conventional food products as organic, or knowingly treating an organic crop with a prohibited material.

9. Q: How long before this rule goes into effect?

A: This rule will become effective 120 days after publication, on June 17, 2010. The implementation period for the rule is 1 year from the effective date, ending on June 17, 2011. Operations which apply for initial organic certification after the effective date (June 17, 2010) must comply with this final rule prior to certification. Existing operations certified as of February 17, 2010 (publication date) must fully implement the provisions of this final rule, as applicable, by June 17, 2011.

10. Q: Why publish a final rule with a request for comments?

A: It is important to note that this rulemaking couples organic livestock and organic dairy production because the use and management of pasture is integral to both types of production. Although AMS is issuing this as a final rule, we are requesting comments on the exceptions for finish feeding of ruminant slaughter stock.

Although finish feeding was discussed as an issue in the proposed rule, the proposed rule did not provide for an exemption. As a result, we received a substantial number of comments concerning the lack of provisions for finish feeding of ruminant slaughter stock. As a result of these comments, the finish feeding provisions of this final rule differ from those in the proposed rule. Specifically, this final rule contains an exemption for finish feeding through the addition of a new paragraph (§205.239(d)). We have determined, therefore, to receive additional comments, limited to the finish feeding provision of this final rule.

11. Q: What comments are NOP specifically requesting?

A: We are requesting comments on the portions of the rule pertaining to the finish feeding of ruminant slaughter stock (provision § 205.239(d)). AMS is asking interested parties to clearly indicate support, or lack of support, for § 205.239(d) as published in this final rule, in full or in part, and the reason(s) for your position. Comments should include only relevant information and data to support the position. More specifically, we are seeking further comments on the following:

- The length of the finishing period, i.e., not to exceed 1/5 of the animal's total life or 120 days, whichever is shorter;
- Infrastructure hurdles and regional differences, if any, these requirements present to slaughter stock operations, including to those operations that graze animals on rangeland, and the estimated economic impact;

- The use of feedlots, as defined in this final rule, for the finish feeding of organic slaughter stock.

12. Q: How long does the public have to provide comment?

A: We are providing an additional 60 day period to receive comments. Comments are due 60 days from the date of publication.

13. Q: How should interested persons submit comments?

A: Interested persons may submit comments by Internet at <http://www.regulations.gov> or by mail. If submitting comments by mail, submit to Toni Strother, Agricultural Marketing Specialist, National Organic Program, USDA-AMS-TMP-NOP, Room 2646-So., Ag Stop 0268, 1400 Independence Ave., SW, Washington, DC 20250-0268. Written comments responding to this request should be identified with the document number AMS-TM-06-0198; TM-05-14.

14. Q: In regards to the comments requested on finish feeding, what action will the agency take?

A: Based upon comments received, AMS will determine whether any further action is warranted. If the agency determines that the comments do not justify further changes to the rule, the agency will notify the public of that determination by Federal Register notice and an announcement on the NOP website.

15. Q: Does the request for comments alter the rule going into effect?

A: AMS may suspend the effective date for slaughter stock producers if the comments indicate that additional action on the finish feeding provisions is needed.

16. Q: What is being done to educate consumers and farmers on access to pasture?

A: NOP will conduct at least 4 training sessions in 2010 for certifiers and organic producers that will include components of new Access to Pasture rule. The trainings will occur on February 25, 2010 in LaCrosse, WI; on March 24, 2010 in Albany, NY; on April 7, 2010 in Denver, CO; and on April 26, 2010 in Woodland, CA. The NOP will provide tools to assist producers and certifying agents in calculating dry matter intake and in preparing

Pasture Plans for inclusion into the Organic System Plan. Training, guidance, and resource materials will be available on NOP website. NOP will also develop a fact sheet for consumers on organic meat and milk. NOP is redesigning the program's Web site which will have a specific portal for consumers to find information about the access to pasture rule.

Dry Matter Intake (DMI)

17. Q: What is dry matter and why is this important?

A: Dry matter is what remains after all of the water is evaporated out of a feed - grain, and fresh or dried forages. Fresh pasture has high water content and will have a lower percentage of dry matter than an equivalent weight of dryer feed, such as hay or grain. Dry matter is an indicator of the amount of nutrients that are available to the animal in a particular feed. Livestock need to consume a certain amount per day (measured in lbs or kg/day) to maintain health and production. The daily amount of dry matter needed depends upon several factors including weight and stage of production (e.g., lactating, pregnant, weaning, finishing). Dry matter can be estimated by using published reference tables which provide the percent dry matter in various dry (hay and grain), fresh and ensiled feeds. There are also methods to measure the actual dry matter in feed.

Organic producers must record the dry matter that each group of animals needs to consume on a daily basis. In addition, the producer must document the feed ration for each group of animals that shows the dry matter percentage of each type of feed in the ration. During the grazing season, ruminants must obtain at least 30% of their dry matter intake from grazing on pasture.

18. Q: How often are producers supposed to calculate DMI? Are they to calculate DMI on a daily, weekly, or monthly basis?

A: DMI is to be calculated as an average over the entire grazing season for each type and class of animal. Calculating dry matter intake as an average over the entire grazing season minimizes the paperwork burden on the producer and permits a variety of accepted methods for determining dry matter demand and intake that can be practically used by the producer and inspected by the certifier.

An initial DMI should be calculated at the beginning of the grazing season, and additional calculations should be made when a change has occurred. For example, the nutritional requirements of a ruminant animal may vary/change over the entire grazing season. If a producer wants to maximize the energy expenditure of their animals (e.g., lactation, growth) at a given time, he/she will take into account the different dry matter demands for the animals

and alter the animals' DMI. Another example is that the diet of the animal may change over the grazing season due to the availability, quantity, and quality of the pasture (forages). Ultimately, a producer will want to demonstrate an average of those values over the entire grazing season in the organic system plan.

19. Q: If one animal does not comply with the 30% DMI does that animal have to be removed from the organic herd?

A: DMI is to be calculated as an average over the entire grazing season for each class and type of animal, not on an individual animal basis. However, if an individual animal or a group of animals has been raised and fed differently than the rest of the organic herd (per each class and type of animal) and the animal does not meet the 30% DMI requirement from pasture during the grazing season, then that animal would not comply with the organic standards and would need to be removed from the organic herd. Cases where animals are raised separately are rare.

20. Q: If a dairy producer has a DMI of 29% for his/her lactating cow herd will he/she lose their certification?

A: The rule states that each type and class of animal must have an average of not less than 30% DMI from grazing throughout the grazing season. The producer would lose his/her certification for the portion of his/her farm affected (i.e., lactating cow herd) and the milk produced from lactating cow herd would not be eligible to be sold, labeled, or represented as organic. There would be no point in having a specific metric if it is not enforced.

21. Q: Are seasonal differences taken into account when calculating DMI over the grazing season (e.g., there could be certain times within the grazing season when it is difficult to meet the 30% DMI level due to poor growing conditions as a result of seasonal weather)?

A: DMI is to be calculated over the grazing season, but the grazing season does not have to be continuous. The determination of the grazing season by the producer and the certifying agent allows flexibility to exclude time periods when inclement weather, season, and or climate conditions may arise causing the grazing season not to be continuous (e.g., poor growing conditions).

22. Q: Are there any ruminant animals that are exempt from the 30% DMI during the grazing season?

A: Yes, breeding bulls, animals denied pasture in accordance with temporary confinement or shelter (§ 205.239(b)(1-8)), animals temporarily denied pasture or outdoor access (§ 205.239(c)(1-3)), and slaughter stock in the finishing phase. Bulls cannot be sold, labeled or represented as organically produced if they are denied pasture. Those animals temporarily denied pasture must obtain at least 30% of their DMI for the periods that they are on pasture. Slaughter stock during the finishing period must have access to pasture but do not need to meet the 30% DMI from pasture requirement.

23. Q: The final rule uses the term grazing season rather than the term growing season used in the proposed rule. Why was this term changed?

A: AMS received many comments advising a change from growing season to grazing season because growing season does not universally coincide with the period when pasture may provide edible forage. We replaced growing season with grazing season so that producers are not disadvantaged by regional climate patterns that otherwise afford adequate pasturing conditions over the course of a year. The 120-day minimum for the grazing season was based on NRCS climate data throughout the United States and was considered to be broadly applicable so as not to disadvantage or exclude producers in any one part of the country.

24. Q: Can irrigation be used to extend the grazing season?

A: Yes, when irrigation is available for use on pasture, it should be used, as needed, to promote pasture growth. Certification would not be jeopardized if irrigation is available, but not used to extend the grazing season, provided that ruminants are managed on pasture and graze daily throughout the grazing season and the operation meets all applicable requirements. , .

25. Q: How does this rule ensure that there will not be conflicts with local water regulations?

A: The final rule will avert potential conflicts because (1) producers have the flexibility to establish a grazing season that is appropriate for local conditions and (2) producers may provide temporary confinement for an animal because of risk to soil or water quality.

26. Q: How do I request a temporary variance?

A: When organic producers experience major damage or interruption to their business due to natural events beyond their control, such as flooding, wind, drought, hail, fire, excessive moisture, the AMS Administrator may grant a temporary variance from certain requirements of the organic standards, including the pasturing requirements. Since the NOP was established in 2002, only 2 temporary variances have been granted.

A certifying agent or a State organic program's governing State official may recommend that the Administrator, but cannot grant or deny a request for a temporary variance. Only the Administrator has the authority to grant a temporary variance. Requests/recommendations for a variance must be in writing and routed through the certifying agent, who in turn, must submit the request to the Administrator. Producers may not send requests for variances directly to the Administrator.

Certifying agents and SOP governing State officials may submit requests by mail to: AMS Administrator, c/o National Organic Program, AMS, USDA, 1400 Independence Ave., S.W., Room 2646-S, Stop 0268, Washington, D.C. 20250; or by e-mail: miles.mcevoy@ams.usda.gov.

27. Q: Feedlots are allowed in organic production?

A: Feedlot is a term used to describe an area that functions as a space to provide feed rations, other than pasture, to livestock. Beyond the functional similarity, feedlots vary in how they are used (the amount of time that animals spend in feedlots) and designed (how much space do animals have in the feedlot). During the non-grazing season and when animals cannot be out on pasture, organic producers need an area to feed their livestock. The terms feedlot, yard, feeding pad are used interchangeably in the organic program. Animals cannot be continuously confined in a feedlot, yard or feeding pad. When animals are in a feedlot, yard or feeding pad, they must have enough space to eat simultaneously and without competition for food.

28. Q: Will the NOP issue more guidance for this rule?

A: The NOP has posted the following resources: (1) a step-by-step guide to help producers understand the dry matter intake calculation requirements; (2) a fillable worksheet to perform the DMI calculations easily; (3) reference tables for determining the dry matter demand for each type and class of beef and dairy animal; (4) a pasture worksheet to help producers establish a rotational grazing system by calculating the pasture acreage, number of paddocks and size of each paddock that an operation will need to balance the forage demands of their animals with the production capacity of the pastures.

We intend to add additional calculation worksheets geared for animals that graze on rangeland in continuous grazing systems; dry matter demand tables for small ruminants, such as sheep and goats. We may add to the guidance as more information becomes available on the nutrient requirements of animals in grazing systems.

29. Q: When can we expect the origin of livestock rule?

A: We expect to publish a proposed rule this summer.

30. Q: Will you be conducting listening sessions for comments on the finish feeding provisions?

A: No. We will review written comments submitted to regulations.gov or to the NOP via fax. The instructions for submitting comments are posted on the pasture rulemaking page on the NOP website.