

National Organic Program Regulatory Text Livestock Sections Updated to Include October 24, 2008 Proposed Pasture Rule and Draft FOOD Farmers suggestions and comments – 11.28.2008

KEY TO DOCUMENT

- NOP proposed changes indicated in underline and ~~strikethrough~~ format.
- FOOD Farmers suggested deletions and additions to NOP's wording indicated by ***bold italics***. (For example, words that are underlined, with strikethrough, and in bold italics would be text added by NOP but suggested for deletion by FOOD Farmers).

**NOTE: Many definitions and sections of the regulation not relevant to the proposed changes have been left out of this compressed version. For the complete version go to:
<http://nodpa.com/rule.shtml>**

Subpart A—Definitions

Class of animal. *A group of livestock that shares a similar stage of life or production.*

Crop. *Pastures, ~~sod~~, cover crops, green manure crops, catch crops, and any plant or part of a plant intended to be marketed as an agricultural product, fed to livestock, or used in the field to manage nutrients and soil fertility.*

Dry matter. *The amount of a feedstuff remaining after all the free moisture is evaporated out.*

Dry matter demand. *The expected dry matter intake for a class of animal.*

Dry matter intake: *Total pounds of all feed, devoid of all moisture, consumed by a class of animals over a given period of time.*

Dry lot. *A ~~confined, fenced~~ area that may be covered with concrete, but that has little or no vegetative cover.*

Feed. Edible materials which are consumed by livestock for their nutritional value. Feed may be concentrates (grains) or roughages (hay, silage, fodder). The term, “feed,” encompasses all

agricultural commodities, including pasture ingested by livestock for nutritional purposes.

Feed additive. A substance added to feed in micro quantities to fulfill a specific nutritional need; i.e., essential nutrients in the form of amino acids, vitamins, and minerals.

Feedlot. *A ~~confined area~~ drylot for the controlled feeding of ruminants.*

Feed supplement. A combination of feed nutrients added to livestock feed to improve the nutrient balance or performance of the total ration and intended to be:

- (1) Diluted with other feeds when fed to livestock;
- (2) Offered free choice with other parts of the ration if separately available; or
- (3) Further diluted and mixed to produce a complete feed.

Field. An area of land identified as a discrete unit within a production operation.

Forage. Vegetative material in a fresh, dried, or ensiled state (pasture, hay, or silage), which is fed to livestock.

Graze. (1) *The consumption of standing forage by livestock.* (2) *To put livestock to feed on standing forage.*

Grazing. *To graze.*

Grazing season. *The grazing season is when pasture plants are available, due to natural precipitation or irrigation, for ruminants to graze. Grazing season dates may vary because of mid-summer heat / humidity, significant precipitation events, floods, hurricanes, droughts. Grazing season may be extended by the grazing of residual pasture as agreed in the organic systems plan. Due to weather, season, and climate, the grazing season may or may*

not be continuous. The grazing season for organic production shall be not less than 120 days.

Growing season. The period of time between the average date of the last killing frost in the spring to the average date of the first killing frost in the fall or early winter in the local area of production. This represents a temperature threshold of 28 degrees Fahrenheit (-3.9 degrees Celsius) or lower at a frequency of 5 years in 10. Growing season may range from 121 days to 365 days.

Inclement weather. Weather that is violent, or characterized by temperatures (high or low), that can kill or cause **permanent** physical harm to a given species of livestock. **Production yields or growth rates lower than the maximum achievable do not qualify as physical harm.**

Killing frost. A frost that takes place at temperatures between 25 degrees and 28 degrees Fahrenheit (2.2 and -3.9 degrees Celsius) for a period sufficiently severe to end the growing season or delay its beginning.

Livestock. Any **bee,** cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, **or feed, or other agricultural-based consumer products;** fish used for food; wild or domesticated game; or other nonplant life, **except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.**

Pasture. Land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources.

Sacrificial pasture. A pasture or pastures within the pasture system, of sufficient size to accommodate all animals in the herd without crowding, where animals are kept for short periods during saturated soil conditions to confine pasture damage to an area where potential environmental impacts can be controlled; or where animals are kept in the non-grazing season to provide access to the outdoors. This pasture is then deferred from

grazing until it has been restored through active pasture management. Sacrificial pastures are located where soils have good trafficability, are well-drained, have low risk of soil erosion, have low or no potential of manure runoff, are surrounded by vegetated areas, and are easily restored. A sacrificial pasture is land used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources; It is not a dry lot or feedlot.

Shelter. Structures such as barns, sheds, or windbreaks, or natural areas such as woods, tree lines, or geographic land features that provide physical protection and / or housing to animals.

Stage of life. (Needs to be defined)

Temporary and Temporarily. Occurring for a limited time only (e.g., overnight, throughout a storm, during a period of illness, the period of time specified by the Administrator when granting a temporary variance), not permanent or lasting.

Yard / feeding pad. An improved area for feeding, exercising, and outdoor access for livestock during the non grazing season and a high traffic area where animals may receive supplemental feeding during the grazing season.

FOOD Farmer comment to NOP: Remove any consideration of origin of livestock from this rule change and work diligently to get a proposed rule on origin of livestock published as soon as possible that will stop the continuous transition of conventional animals as dairy replacements.

§ 205.236 Origin of livestock.

- (a) Livestock products that are to be sold, labeled, or represented as organic must be from livestock under continuous organic management from the last third of gestation or hatching: *Except, That:*
(2) Dairy animals. Milk or milk products must be from animals that have been

under continuous organic management beginning no later than 1 year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic. *Except,*

- (i) That, crops and forage from land, included in the organic system plan of a dairy farm, that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products; and
- (ii) That, when an entire, distinct herd is converted to organic production, the producer may, *provided* no milk produced under this subparagraph enters the stream of commerce labeled as organic after June 9, 2007: (a) For the first 9 months of the year, provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements; and (b) Provide feed in compliance with §205.237 for the final 3 months.

FOOD Farmer comment: do not adopt changes in (iii) below.

- (iii) Once an entire, distinct herd an operation has been converted to certified for organic production using the exception in paragraph (a)(2)(i) or (ii) of this section all dairy animals brought onto the operation shall be under organic management from the last third of gestation.

§ 205.237 Livestock feed.

- (a) The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced by operations certified to the NOP, except as provided in § 205.236(a)(i), and, if applicable, organically handled by operations certified to the NOP: *Except,*

That, nonsynthetic substances and synthetic substances allowed under §205.603 and nonsynthetic substances may be used as feed additives and supplements, Provided, That, all agricultural ingredients in such additives and supplements shall have been produced and handled organically.

- (b) The producer of an organic operation must not:
 - (1) Use animal drugs, including hormones, to promote growth;
 - (2) Provide feed supplements or additives in amounts above those needed for adequate nutrition and health maintenance for the species at its specific stage of life;
 - (3) Feed plastic pellets for roughage;
 - (4) Feed formulas containing urea or manure;
 - (5) Feed mammalian or poultry slaughter by-products to mammals or poultry; **or**
 - (6) Use feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act;
 - (7) Provide feed or forage to which anyone, at anytime, has added an antibiotic; **or**
 - (8) Prevent, withhold, restrain, or otherwise restrict ruminant animals from actively obtaining feed grazed from pasture during the growing grazing season, except for conditions as described under § 205.239(c).

- (c) During the growing grazing season, producers shall provide not more than an average of 70 percent of a ruminant's dry matter demand from dry matter fed (dry matter fed does not include dry matter grazed from vegetation rooted in pasture or mowed and left in the pasture to be grazed).

- (1) **Each class of ruminants over 6 months of age shall receive, at a minimum, an average of 30% of their dry matter demand from pasture for the entire grazing season, which shall be not less than 120 days.**

(2) Except that, ruminant slaughter stock that are typically grain finished to meet consumer expectations may be exempt from the 30% pasture DMI requirement during the finishing period, not to exceed 120 days, but must not be denied access to pasture during that period.

(3) Grazing season must be described in the operation's organic system plan and be approved by the certifier as being representative of the typical grazing season duration for the particular area. Certifiers, in reviewing the organic system plan, shall confirm that adequate fields are set aside for pasture to provide grazing for ruminants for the entire grazing season, not just for the 120 day minimum. Irrigation must be used as needed to promote pasture growth when an operation has it available for use on crops.

(d) Producers shall, as part of their organic systems plan, document all feed rations for all species and classes of animals. For ruminants, documentation shall be maintained of changes that are made to all rations throughout the year in response to seasonal grazing changes such that records can verify the feeding requirements of 205.237(c). Producers shall, once a month, on a monthly basis:

FOOD Farmers recommends removing (1) through (4) below from this regulation and putting them into guidance, along with other methods to calculate DMI.

*Begin into guidance****(1) Document each feed ration (i.e., for each type of animal, each class of animal's intended daily diet showing all ingredients, daily pounds of each ingredient per animal, each ingredient's percentage of the total ration, the dry matter percentage for each ingredient, and the dry matter pounds for each ingredient) as it changes throughout the year;

(2) Document the daily dry matter demand of each class of animal using the formula:

Average Weight/Animal (lbs) ×
.03 X = lbs DM/Head/Day ×
Number of Animals = Total DM
Demand in lbs/Day; where X=.04
for lactating dairy cows, X=.02-
.025 for dry dairy cows and dairy
youngstock, X=.025 for lactating
beef, X=.02 for non lactating beef,
X=?? for goats, sheep, wild game

(3) Document how much dry matter is fed daily to each class of animal in all rations; and

(4) Document the percentage of dry matter fed in all rations daily to each class of animal using the formula: (DM Fed ÷ DM Demand in lbs/day) × 100 = % DM Fed. ***End into guidance.

§ 205.238 Livestock health care practice standard.

- (a) The producer must establish and maintain preventive livestock health care practices, including:
 - (1) Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;
 - (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);
 - (3) Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasites;
 - (4) Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;
 - (5) Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and
 - (6) Administration of vaccines and other veterinary biologics.

(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, a producer may administer ***nonsynthetic substances provided they are not prohibited under 205.604. In addition a producer may administer*** synthetic medications: *Provided, That, such medications are allowed under §205.603....*

§ 205.239 Livestock living conditions.

(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 **those listed in paragraphs (a)(1) through (a)(3 4)** of this section. **Further, producers shall not prevent, withhold, restrain, or otherwise restrict animals from being outdoors, except as otherwise provided in paragraph (b) and (c) of this section.** Producers shall also provide:

(1) **Year-round access for all animals** to the outdoors, shade, shelter, exercise areas, fresh air, **water for drinking (indoors and outdoors)**, and direct sunlight suitable to the species, its stage of **life production**, the climate, and the environment, **except as otherwise provided in paragraph (b) of this section. Continuous, total confinement in dry lots and feedlots is prohibited.**

(2) **Access to pasture for ruminants;**
(2) For all ruminants, provision of pasture throughout the grazing season to meet the requirements of 205.237 continuous year-round management on pasture, except as otherwise provided in paragraph (c) of this section, **for:** (i) **Grazing throughout the growing season; and**
(ii) Access to the outdoors throughout the year, including during the non-growing season. Dry lots and feedlots are prohibited.

(3) Appropriate clean, dry bedding. If the bedding is typically consumed by the animal species, **When hay, straw, ground cobs, corn stalks, or other**

crop matter typically fed to the animal species is used as bedding, it must comply with the feed requirements of §205.237. **Genetically modified crop matter must not be used as bedding;**

- (4) Shelter, **as needed and appropriate to the species,** designed to allow for:
(i) Natural maintenance, comfort behaviors, and opportunity to exercise;
(ii) Temperature level, ventilation, and air circulation suitable to the species; and
(iii) Reduction of potential for livestock injury;

(b) The producer of an organic livestock operation may **provide temporary confinement** provide temporary confinement for an animal **temporarily deny a non-ruminant animal access to the outdoors and shelter for an animal** because of:

- (1) Inclement weather **and conditions caused by inclement weather;**
(2) The animal's stage of **production life.** **Lactation is not a stage of life that would exempt ruminants from any of the mandates set forth in this regulation;**
(3) Conditions under which the health, safety, or well being of the animal could be jeopardized; or
(4) Risk to soil or water quality.

(c) The producer of an organic livestock operation may temporarily deny a ruminant animal **pasture or outdoor access** under the following conditions:

- (1) When the animal is segregated **for the day of breeding or preventive health care practice, the treatment of illness or injury** (the various life stages, such as lactation, are not an illness or injury);
(2) **One week at the end of a lactation for dry off, two weeks prior to parturition (birthing), parturition, and up to one week after parturition;**
(3) **In the case of newborns for up to six months, after which they must be on**

pasture during the grazing season and may no longer be individually housed;

(4) In the case of goats, during periods of inclement weather:

(5 4) In the case of sheep, for short periods for shearing; and

(6 5) 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 dry matter intake from grazing of not less than 30 percent throughout the growing grazing season. Milking frequencies or duration practices cannot be used to deny dairy animals pasture.

(d) Ruminants must be provided with:

(1) A lying area with well maintained clean, dry bedding, which complies with paragraph (a)(3) of this section, during periods of temporary housing, provided due to temporary denial of pasture during conditions listed in paragraphs (c)(1) through (c)(5) of this section and during the non grazing season;

(1 2) Yards, feeding pads, shelter, and passageways laneways kept in good condition and well-drained;

(2 3) Shade and shelter as appropriate to the species in the case of goats, shelter open on at least one side;

(4) Water at all times except during short periods for milking or sheering - such water must be protected from fouling;

(3 5) Feeding and watering equipment that are designed, constructed, and placed to protect from fouling - such equipment must be cleaned as needed. weekly; and

(5 6) In the case of newborns, hay in a rack off the ground, beginning 7 days after birth, unless on pasture, and pasture for grazing in compliance with § 205.240(a) not later than six months after birth.

~~(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 (f) The producer of an organic livestock operation must manage outdoor access areas, including pastures, in a manner that does not put soil or water quality at risk. This may include the use of fences and buffer zones to prevent ruminants and their waste products from entering ponds, streams, and other bodies of water. Buffer zone size shall be extensive enough, in full consideration of the physical features of the site, to prevent the waste products of ruminants from entering ponds, streams, and other bodies of water.~~

FOOD Farmers comment: Put the below practice standards that have been struck out, plus other potential standards, into guidance.

§205.240 Pasture practice standard.

The producer of an organic livestock operation must, for all ruminant livestock on the operation, demonstrate through auditable records in the organic system plan, a functioning management plan for pasture that meets all requirements of §§ 205.200 - 205.240.

(a) Pasture must be managed as a crop in full compliance with §§ 205.200 through 205.206.

(b) The producer must develop and annually update a comprehensive A pasture plan for inclusion containing at least the following information must be included in the producer's organic system plan, which may consist of the certifier's farm and livestock questionnaires, and be updated annually when any changes are made. The pasture plan must show the following: When there is no change to the previous year's comprehensive pasture plan the certified operation may resubmit the

previous year's comprehensive pasture plan.

(c) The comprehensive pasture plan must include a detailed description of:

- (1) The types of pasture provided to ensure that the feed requirements of 205.237 are being met; Crops to be grown in the pasture and haymaking system;
- (2) Cultural and management practices, including but not limited to varying the crops and their maturity dates in the pasture system, to be used to ensure pasture of a sufficient quality and quantity is available to graze throughout the growing grazing season and to provide all ruminants, except for exempted classes, under the organic systems plan with an average of not less than 30 percent of their dry matter intake from grazing throughout the growing grazing season;
- (3) Description of the grazing season.
The haymaking system
- (4) The location of pastures and haymaking fields, including maps showing the pasture and haymaking system and giving each field its own identity;
- (5) The types of grazing methods to be used in the pasture system;
- (6) The location and types of fences, except for temporary fences, and the location and source of shade and water;
- (7) The soil fertility, seeding, and crop rotation systems.
- (8) The pest, weed, and disease control practices;
- (9) The erosion control and protection of natural wetlands, riparian areas, and soil and water quality practices;

(10) Pasture and soil sustainability practices; and

(11) Restoration of pastures practices.

(c d) The pasture system must may include a sacrificial pasture for grazing, to protect the other pastures from excessive damage during periods when saturated soil conditions render the pasture(s) too wet for animals to graze; and for outdoor access in the non-grazing season. The sacrificial pasture must be:

(1) Sufficient in size to accommodate all animals in the herd without crowding;
(2) Located where:

- (i) Soils have good trafficability;
- (ii) Well drained;
- (iii) There is a low risk of soil erosion;
- (iv) There is low or no potential of manure runoff;
- (v) Surrounded by vegetated areas; and
- (vi) Easily restored.

(3) Managed to:
(i) Provide feed value; and
(ii) Maintain or improve soil, water, and vegetative resources.
(4) Restored through active pasture management.

(e) In addition to the above, producers must manage pasture to comply with all applicable requirements of §§ 205.236 - 205.239.

FOOD Farmers comment: Add the following pasture practice standard to guidance:
At no time during the grazing season, when any class of ruminant receives less than 30% of their dry matter intake from grazing, except for exempted classes, shall the operation mechanically harvest crops from its pastures.