Access to Pasture Rule for Organic Livestock
Frequently Asked Questions

Question 1: What is meant by organic production?

Answer: 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.

Question 2: How does organic livestock production differ from conventional livestock production?

Answer: 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 be pasture-based.

Question 3: What is the purpose of the access to pasture rule?

Answer: The rule 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 allow the NOP to efficiently administer and enforce the integrity of the organic seal concerning ruminant livestock feed and living conditions.

Question 4: What are the main changes to the organic standards as a result of this rule?

Answer: 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 (for a minimum of 120 days). This rule also recognizes pasture as a crop.

Question 5: Do the provisions in this rule apply only to ruminant livestock?

Answer: 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, for daily grazing throughout the grazing season, and for the pasture practice standard are for ruminant animals only.

Question 6: What are the main clarifications within this rule that apply to all livestock?

Answer: 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.

Question 7: Why was an Access to Pasture rule needed?

Answer: 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 NOP regulations, prior to the publication of the Access to Pasture rule in February 2010, 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 prior to this rule allowed temporary confinement for circumstances which could be interpreted as overly permissive. Through the complaint process, the NOP became aware of 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. The Access to Pasture rule clarifies that lactation is not 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 (continued)

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.

Question 8: How long before this rule goes into effect?

Answer: The Access to Pasture rule became effective on June 17, 2010. Operations certified as of February 17, 2010 (the publication date of the rule) need to be in full compliance with the rule by June 17, 2011. New organic livestock operations must be in full compliance with the rule now.

Question 9: What is the role of certifying agents prior to June 17, 2011?

Answer: Certifying agents should be assessing and inspecting organic ruminant operations to determine their compliance with the new pasture requirements. During the 2010 grazing season, certifying agents should be assessing ruminant operations for compliance with the pasture rule and documenting any concerns identified. Certifying agents should notify ruminant operations regarding whether they have adequate records and adequate forage from pasture to meet the new pasture requirements. Certifying agents should also notify operations concerning any areas where the operation is not in compliance with the new pasture requirements. Noncompliance notices should not be issued to operations that were certified prior to February 17, 2010. However, these operations need to be notified of any areas that they need to modify in order for them to come into full compliance by June 17, 2011. After June 17, 2011, certifying agents must issue Notices of Noncompliance or other adverse actions for violations found during the certification process.

Question 10: The NOP requested comments on the finish feeding provisions of this rule to determine if further action is warranted on these provisions. What are these provisions? Does the NOP anticipate further changes to this part of the rule based upon the comments received?

Answer: The final rule contained an exemption for finish feeding through the addition of a new paragraph (§205.239(d)). During the finishing period, ruminant slaughter stock are exempt from the minimum 30 percent DMI requirement from grazing. The rule also requires that ruminant slaughter stock, typically grain finished, shall be maintained on pasture for each day that the finishing period corresponds with the grazing season. This finishing period shall not exceed one fifth (1/5) of the animal's total life or 120 days, whichever is shorter.

When the Access to Pasture rule was published in February 2010, the NOP requested comments on the following aspects of the finish feeding provision:

- 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; and (continued)

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

The comment period closed on April 17, 2010. AMS is currently assessing the comments received to determine whether further action is warranted on the finish feeding provisions. If the agency determines that the comments do not justify further changes to the rule, the agency will notify the public through an announcement on the NOP website.

Question 11: What resources are available for producers seeking more information on the access to pasture requirements?

Answer: The NOP conducted four training sessions in 2010 for certifiers and organic producers on components of the new Access to Pasture rule. The trainings occurred 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. All of these presentations are available on the NOP website at http://www.ams.usda.gov/nop

Information on calculating dry matter intake (DMI) and associated worksheets and tables are available in the NOP Program Handbook available on our website at http://www.ams.usda.gov/nop. These resources include (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 different types and classes of beef and dairy animals; (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 in order to balance the forage demands of their animals with the production capacity of the pastures. The National Research Council (NRC) also has additional resources for nutrient requirements for small ruminants (see, for example, http://www.nap.edu/catalog.php?record_id=11654).

The NOP is also working with the National Center for Appropriate Technology to develop new templates for organic system plans (OSPs) and other resources targeted to both producers and certifiers that will incorporate the new pasture requirements. It is anticipated that these materials will be available in early 2011.

Question 12: What is dry matter and why is this important?

Answer: 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 of dry matter 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 intake (DMI) 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. Under the NOP regulations, ruminants must obtain at least 30% of their dry matter intake (DMI) from grazing on pasture during the grazing season.

Question 13: How often are producers supposed to calculate DMI? Are they to calculate DMI on a daily, weekly, or monthly basis?

Answer: 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.

The producer should calculate an initial DMI at the beginning of the grazing season, and should do additional calculations when a change in the ration 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 should demonstrate a weighted average of those values over the entire grazing season specified in the organic system plan.

Question 14: If an individual animal does not comply with the 30% DMI, then does that animal have to be removed from the organic herd?

Answer: 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 has been raised and fed differently than the rest of the organic herd 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.

Question 15: What happens to a class (or group) of animals if, at the end of the grazing season, that class (or group) of animals fails to meet the 30% DMI from grazing requirement?

Answer: 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. In cases where part of an operation (e.g. a particular class or group of animals) fails to meet the 30% DMI from grazing requirement at the end of the grazing season, the certifying agent would issue a combined noncompliance and proposed suspension for that portion of the operation. The producer would lose his/her certification for this portion of his/her farm.

Question 16: What happens to a class (or group) of animals if, during the grazing season, that class (or group) of animals fails to meet the 30% DMI from grazing requirement?

Answer: Certifying agents will need to review these instances on a case-by-case basis to determine the compliance actions taken for this class (or group) of animals. The certifying agent would need to determine whether the failure to meet the 30% DMI from grazing requirement is correctable or not given the (continued)

time remaining in the operation's grazing season. If it appears that the operation will be able to meet the 30% DMI requirement by the end of the grazing season, then the certifier may issue a Notice of Noncompliance. The producer would then be able to take corrective actions to meet the 30% DMI from pasture requirement. The certifier would then need to verify that the producer implemented corrective actions to comply with the 30% DMI from pasture requirement. If it appears that the operation will not be able to meet the 30% DMI requirement by the end of the grazing season, then the action specified in Question 15 would apply. Certifying agents should strive to conduct inspections early in the grazing season so that any problems identified could be corrected before the end of the grazing season.

Question 17: Is failure to have adequate records to demonstrate the percentage of DMI from grazing a correctable or non-correctable noncompliance?

Answer: Failure to have adequate records to demonstrate the percentage of DMI from grazing should be treated like other recordkeeping violations under the NOP. Many recordkeeping violations are correctable. Under §205.662, certifying agents must send a written notification of noncompliance for all violations. The certified operation has an opportunity to rebut or correct each noncompliance. If the certified operation is unsuccessful in their rebuttal or fails to correct the noncompliance within the prescribed time period, then the certifying agent must send a written notice of proposed suspension or revocation. Certifying agents should assess the adequacy of records during the 2010 grazing season to ensure that producers are maintaining adequate records in 2011.

Question 18: 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)?

Answer: 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).

Question 19: How can certifying agents verify that the producer's defined "grazing season" is acceptable?

Answer: The grazing season is described by the producer within their Organic System Plan. The certifying agent evaluates the Organic System Plan and the grazing season and accepts the plan if it aligns with grazing seasons typical of the area where the organic operation is located. Certifying agents should utilize resources (e.g. from the USDA Natural Resources Conservation Service (NRCS) or local extension offices) that support the grazing season specified in an operation's Organic System Plan. However, certifying agents should also consider the unique conditions on the farm (e.g. topography, climate) in determining a reasonable grazing season for that operation.

Question 20: Are there any ruminant animals that are exempt from the 30% DMI during the grazing season?

Answer: 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 are exempt from the 30% DMI requirement. 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.

Question 21: The final rule used the term "grazing season" rather than the term "growing season" used in the proposed rule. Why was the term changed?

Answer: 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. The NOP 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.

Question 22: Can irrigation be used to extend the grazing season?

Answer: 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.

Question 23: How does this rule ensure that there will not be conflicts with local water regulations?

Answer: The final rule averts 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.

Question 24: How do I request a temporary variance?

Answer: 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. (continued)

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

Question 25: Are the terms feedlot, yard, and feeding pad used interchangeably under the access to pasture provisions of the rule?

Answer: Yes, the terms feedlot, yard, feeding pad are used interchangeably under the rule. Feedlot, yard and feeding pad are terms used to describe an area that functions as a space to provide feed rations, other than pasture, to livestock. Beyond their functional similarity, these attributes do 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. 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.

Question 26: How do you plan on enforcing these new standards and what are the penalties?

Answer: Ruminant livestock producers must demonstrate compliance with this rule in their Organic System Plans. Producers must include a pasture management plan and maintain 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, up to $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.