



# Northeast Organic Farming Association of Vermont

*An organization of farmers, gardeners, and consumers working to promote an economically viable and ecologically sound Vermont food system*

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Vermont Organic Farmers LLC (VOF) is a USDA accredited certifier representing over 500 certified organic farmers and processors. The organization has been certifying producers since 1985 and has been accredited by the USDA since 2002. We appreciate the opportunity to comment on the National Organic Program's Proposed Pasture Rule and we want to thank USDA staff for their hard work in completing this long awaited regulation. Overall we commend the program for creating a rule with strong language and a clear requirement that organic livestock must be pastured. However, we have suggestions for improvements to the regulations that we hope the NOP will seriously consider.

## **Sacrificial Pasture**

The proposed rule would require *all producers in all regions* of the country to make use of sacrificial pasture *at all times of the year* when conditions are such that routine grazing practices would result in "excessive damage" to pastures.

We believe that this requirement, as proposed, would not only create increased risks to animal health and the quality of soil and water resources, but that it is also at odds with other well-established standards of organic production.

In many parts of the country, and on many farms in Vermont, compliance with these proposed standards would be unachievable, for the following reasons:

1. Some soil types lack physical characteristics compatible with use as sacrificial pasture, as defined. For example, many farms in Vermont are located entirely on clay soils which are poorly drained and highly prone to grazing and hoof damage during periods of wet weather or periods of freezing and thawing. Such periods may extend for many days, or even weeks or even months. The proposed standard would require that animals be turned out each day during these periods onto easily damaged sacrificial pastures. Exceptions to this requirement (§ 205.239 paragraph c) **do not**



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include risks to soil and water quality. This exception should be added to paragraph c.

2. In regions with long, cold and wet or snowy winters, animal grazing is not possible without incurring damage to pastures and jeopardizing animal health during these winter months. The proposed standard would require that animals be turned out to sacrificial pasture during this period, which may, in some regions, be up to 6 months in length. Again, this practice would, without question, result in serious degradation of the pasture and negative environmental impacts.
3. In 1 & 2, above, circumstances would result in significantly increased risk of physical injury, stress and infectious disease to animals, contrary to standard 205.238.
4. As a consequence to 1& 2, above, producers would be at increased risk of violating existing nutrient management plan contracts and local and state environmental regulations.

The use of sacrificial pasture should only be required during the growing season and dormant season when such use is not likely to result in degradation of soil and water resources, or heightened risks to animal health. Such risks and a plan for managing them should be included in the OSP and determined by the Accredited Certifier in consultation with the producer and soil and water experts (e.g., NRCS, state agencies).

### **Temporary Confinement**

In attempting to close all potential loopholes, the new proposed rule requires 365 days on pasture for all ruminants. In addition, it requires access to the outdoors throughout the year including the non-growing season, but prohibits the use of dry lots and feedlots, which are defined as “a confined area with no vegetation”. Despite the good intentions of this regulation, it prevents organic dairy farms in Vermont to manage their soil and animals without causing animal welfare and the environmental problems.

Often during the winter months, temperatures in Vermont are below freezing with hazardous wind chill levels. It is during this type of inclement weather, where producers need the option of confining animals in order to care for them humanely and protect them from serious damage from frostbite. Cows are adaptable animals and will grow heavy winter coats and put on extra fat, however in extreme temperatures their coats and body condition will not be sufficient to protect against cold stress and frostbite in teats and ears. In many cases, when experiencing cold stress, cows will lose weight as stored fat is diverted to maintain body temperature and vital functions. These cows will enter a dangerous downward spiral, the more weight they lose, the harder it is for them to maintain their body temperature, the more susceptible to cold stress they become and they lose weight even faster. Farmers need the option of keeping animals in the barn either at night or for longer periods to protect them from frostbitten ears and teats. These scenarios would be temporary, but producers need the option and flexibility in the rule to make good decisions about when it is unsafe for their animals to go outside in inclement weather.

For up to 6 months of the year in Vermont, organic dairy producers must confine their animals to a well-managed barnyard in order to protect soil and water resources. In addition, there may be times during the growing season where due to excessive rain events the use of a sacrificial pasture would result in environmental degradation or threats to animal health. The current and proposed rule both identify the

importance of protecting soil and water quality. If required to put animals out on pasture during the non-growing season in Vermont, farmers would create major environmental issues. “Pastures” would quickly become nothing but mud that would freeze on good days. The excess of manure would create nutrient run off issues that would affect the quality of nearby streams and bodies of water. And welfare would be compromised, as animals would be forced to navigate in thick mud, creating an environment where they would be more prone to disease and ill health. It is essential that producers have the option to temporarily confine animals during both the growing and non-growing season to protect soil and water quality.

### **Prescriptive Language**

This proposed rule seems to have more prescriptive language than we have seen in the past. In several sections of the proposed rule specific practices are stipulated to achieve desired outcomes. In some cases, we find these required practices to be highly prescriptive, ill considered and needlessly burdensome to producers.

#### Example #1:

205.237 Livestock feed.

(c)(2) Document the daily dry matter demand of each class of animal using the formula:  
$$\text{Average Weight/Animal (lbs)} \times .03 \times \text{Number of Animals} = \text{Total DM Demand in lbs/Day}$$

This proposed requirement fails to take into account the varied DM requirements of different livestock species and the effects of age, stage of life, etc. Furthermore, this requirement would result in an unwarranted record-keeping burden. We recommend the following change:

Replace (c)(1-3) with general language: Producer must provide sufficient records in the OSP in order to demonstrate compliance with requirements for 30% DMI from pasture during the growing season for each class of animal, averaged over the growing season.

#### Example #2:

205.239 Livestock living conditions.

(d)(3) Ruminants must be provided with shade and in the case of goats, shelter open on at least one side”.

This language is needlessly prescriptive and fails to allow for reasonable flexibility in complying with the standards. It should be changed to: “shade, *as needed*, and in the case of goats, *shelter adequate to maintain animal health and comfort*”.

#### Example #3:

205.239 Livestock living conditions.

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

Again, this language is highly prescriptive, precludes alternate means of providing for clean water and hay; it places unnecessary documentation/verification burdens on both producers and certifiers.

This language should be changed, as follows:

- (5) feeding and watering equipment that is clean, and
- (6) In the case of newborns, hay that is free of soil or fecal contamination

Example #4:

205.240 Pasture practice standard.

(c)(6)The comprehensive pasture plan must include a detailed description of: the location and types of fences and the location and source of shade and water.

This could be interpreted as requiring that temporary pasture fencing, the location of moveable water tanks in paddocks, and every shade tree in a pasture be indicated on field maps that are submitted as part of the OSP. This language should be changed to make clear that permanent, perimeter fencing and water sources are to be indicated, as well as significant sources of shade that are used, as needed, during the grazing season.

Example #5:

205.239 Livestock living conditions.

(c)(2) The producer of an organic livestock operation may temporarily deny a ruminant animal pasture under the following conditions: one week prior to parturition (birthing), parturition, and up to one week after parturition.

This language requires unnecessary verification for producers and certifiers. As it current reads, producers could be penalized for keeping animals confined if the animal is two weeks past her due date.

This language should be changes as follows: The producer of an organic livestock operation may temporarily deny a ruminant animal pasture under the following conditions: pre- parturition (birthing), parturition, and post-parturition.

### **Origin of Livestock**

The NOP has indicated that it is the intention of the program to work on rewriting the requirement for origin of livestock to create a rule that is fair and practiced uniformly no matter how an operation transitioned to organic production. VOF believes that the allowance for conversion of non-organic dairy animals should be permitted only as a one time, whole herd transition. After the transition, all certified operations need to manage their animals organically starting from the last third of gestation. If the changes to the section of origin of livestock in the current proposed rule were meant to reflect the status quo, we would argue that the majority of certifiers are requiring last third of gestation regardless of how an operation transitioned. We would recommend keeping the language the same at this time and working on this issue in a separate proposal.