



CROPP COOPERATIVE
ORGANIC and FARMER-OWNED since 1988

DOCKET NO. AMS-TM 06-0198; TM-05-14

ACCESS TO PASTURE (LIVESTOCK)

73 Fed. Reg. 63584 (Released October 24, 2008)

Handout of CROPP Cooperative

January 28, 2010

CROPP Cooperative (CROPP) is the nation's largest farmer-owned organic cooperative with currently over 1650 members, including 1335 organic dairy farmers. CROPP markets the production from these farmers, to retailers and distributors around the country, with sales this year expected at approximately \$600 million.

This handout supports the oral remarks made on January 28, 2010 to OMB staff regarding the above referenced docket, USDA's proposed final rule styled, "Access to Pasture (Livestock)." The remarks reiterated comments submitted to the USDA during the comment period on the proposed rule and reflect CROPP's support for the proposed final rule.

Office of Management and Budget ("OMB")

The Paperwork Reduction Act, 44 U.S.C. §3501-20, and implementing regulations at 5 C.F.R. §1320 authorize the Office of Management and Budget to evaluate the information gathering requirements of proposed agency rules for the purpose of ensuring a minimal burden on citizens with a maximum public interest benefit. In addition, Executive Order No. 12866, 58 Fed. Reg. No. 190 (released October 4, 1993) authorizes OMB to review significant regulatory action to ensure it most aptly serves the intended function and does not impose an undue burden on citizens and businesses. See e.g. Section 1(b)(11)(least burden) and Section 2(b)(OMB authority).

This handout is submitted to bolster the comments previously submitted by CROPP and to update and refresh the information available to OMB regarding the ability of those affected by the proposed regulations to beneficially conduct their businesses under them. CROPP believes the record inescapably demonstrates that the requirements

proposed in the final rule impose no undue burden regarding reporting requirements or undue financial burden under a normal production environment.

Framing the Issue

We understand that OMB may have received information that purported to demonstrate that a new rule originating from the National Organic Program regarding pasture access for organic dairy animals would negatively impact organic dairy farmers if it includes certain proposed provisions requiring that dairy animals receive a minimum percentage of daily dry matter intake (DMI) from pasture and that farmers record sufficient information to demonstrate this figure is met. As the marketer of organic milk for a majority of the organic dairy farmers in the country, CROPP's experience clearly demonstrates that:

- Mandatory "access to pasture" requirements for organic dairy animals have been part of the regulatory regime governing organic livestock raising since the inception of the NOP in 2002;
- Ruminants' access to pasture for food and healthy behavior has been a fundamental organic principle, and the slow and incremental evolution of the contours of this requirement has prepared organic dairy farmers for the imposition of measurable outcomes like those appearing in the rule proposed in this docket;
- The majority of organic dairy farmers in the country already meet or exceed the proposed rule's requirement of 30% DMI; and
- The McBride Report should be discounted as a source of meaningful data as its information is outdated and stale and insufficient to underpin a finding of a disqualifying negative economic impact.¹

I. The Proposed Access to Pasture Requirements Are Not New--Pasture Access Has Always Been a Fundamental Requirement of the National Organic Standards

In the Organic Foods Production Act of 1990, Congress directed the National Organic Standards Board ("NOSB") to "recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that such livestock is organically produced." See 7 U.S.C. §6509. The NOSB recommended the requirement of "access to pasture," which is not a conventional model of feeding, and went on to make a series of recommendations, culminating in the rule that OMB is reviewing right now. In 2000, the NOSB recommended that a "significant" portion of diet come from pasture, and that producers should "maximize" the value of pasture in their animals' diets on their operations. Accordingly, any producer transitioning to organic or considering transition since 2000 would have been aware of this impending requirement.

The Final Rule was adopted in 2002 and "access to pasture" was made a permanent part of the organic standards. In response to confusion about the exact meaning of "access to pasture" and concerns because there was no simple metric for

¹ McBride & Greene Report (USDA ERS 2009)(the "McBride Report").

evaluating the extent of the access to pasture that an operation provides, the industry and the NOSB moved toward the current standard of 30% DMI and 120 days of pasture access per year. Pasture access has always been required in the federal program, and any kind of confinement, save for temporary confinement for very narrow reasons, has always been prohibited. Any farmers who are not prepared to provide mandatory minimum proof by simple measurable factors, have ignored this long and winding path to clarity that has been taken by the USDA. When a rule changes by evolution rather than revolution, opponents cannot legitimately argue that this proposed rule is a change in midstream.

A. The Majority of Certified Organic Dairy Farmers Already Meet or Exceed the 30% DMI Requirement

To demonstrate both the elongated timeline to the USDA's decision to act and the widespread adoption of the now proposed standard OMB need only look at the evolution of CROPP's standards that govern the on-farm practices of a majority of the organic dairy farmers in the country.

First, in 2002, CROPP farmers passed the following policy:

1. Ruminant livestock must have access to graze pasture during the months of the year when pasture provides edible forage, and the grazed feed must provide a significant portion of the feed requirements during those months. The Farm Plan must illustrate how the producer will maximize the pasture component of the total feed used in the farm system.
2. The producer of ruminant livestock may be allowed temporary exemption to pasture because of:
 - a) Conditions under which the health, safety, or well-being of the animal could be jeopardized.
 - b) Inclement weather
 - c) Temporary conditions which pose a risk to soil and water quality.
3. The producer of ruminant livestock may be allowed exemption to pasture during the following stages of production:
 - a) Dairy stock under the age of 6 months
 - b) Beef animals during final stage of finishing for no more than 90 day.

Second, in 2005, the CROPP farmers, in anticipation that the USDA would pass a rule requiring 30% DMI and in recognition that the 30% requirement should become the industry standard, passed a policy requiring all farmers shipping milk with CROPP meet a standard of 30% DMI and 120 days on pasture during the growing season. A copy of the 2005 policy is attached. **See Exhibit A (2005 Pasture Policy).**

Third, after allowing a year for farmers to make adjustments to their operations as needed, the cooperative then began a process of auditing all of the member farms. Each farm was notified that a failure to meet the standard would result in a loss of the market; if the farmer could not timely execute a work improvement plan to eliminate the deficiencies. **See Exhibit B (2007 Pasture Policy Later policies have clarified that substandard remediation efforts will result in loss of market. See Exhibit D (2010 Pasture Policy).** All dairy farms marketing their milk through CROPP were physically audited using a version of the attached 2010 producer affidavit. **See Exhibit C (2010 affidavit form).** Today, we have over 1325 farmer members that meet or exceed this standard. An estimated six farmers (less than 1% of our dairy members) are in the process of changing systems on their farms to fully meet the requirements of CROPP's policies.

Even looking beyond our hard data living with the 30% DMI from pasture requirement, it is easy to see that the U.S. organic dairy industry has been prepared for this rule change for some time. In fact, since 2005, a majority of the major organic milk marketers adopted the 30%DMI and 120 day standard. In late 2009, 270 farmers from one of these marketers joined CROPP. In that process, CROPP physically audited each of those 270 farmers and all but two met the standard even without previously passing muster under the strict auditing process that CROPP had instituted.

B. The McBride Report Should Not Be a Basis for Finding a Negative Economic Impact.

Recently OMB was presented with information in support of the claim that 60-80% of organic dairy farmers affected by the proposed USDA rule could not meet the 30% DMI standard. This claim was supposedly bolstered by the McBride & Greene Report (USDA ERS 2009)(the "McBride Report").

The McBride Report is quite out of step with the current organic dairy industry. It relies on data from a 2005 survey, that captured data from an industry that was poised to grow by more than 25% in every year since that time.

Moreover, CROPP has substantial support for its belief that the data relied upon in the McBride report was not the most accurate for 2005 and surely is not reflective of the current industry reality. For example, the McBride report states that the number of cows in the Upper Midwest declined from 2000 to 2005, and remained flat in the Northeast, while our actual numbers demonstrate significant growth in the Upper Midwest and Northeast. **See Exhibit E (2005 Data).** The McBride report states that "nearly 90 percent of organic dairies sourced at least 25 percent of the total forage ration

from pasture.” But this figure is deceiving, as we cannot tell if these same dairies are feeding more than 25% -- even up to feeding 100% of feed from pasture. Further, that information in the report is based on data derived from one question in a survey conducted among conventional and organic producers.

The McBride Report is correct however when it states that pasture is less expensive to maintain and produce than purchased feed, and pasture contributes to a less stressful system for the dairy cattle, resulting in lower veterinary bills. In addition, the report states that pasture may have environmental benefits, such as improved soil quality and reduced soil erosion. (McBride at 17). These are fundamental reasons why pasture is a central part of any organic dairy operation and meaningful metrics are part of the proposed federal rule.

Finally, the survey data used in the McBride Report is five years old. During that five years, the organic dairy industry has embraced the 30% DMI and 120 day access requirements. Each of the major marketers of organic milk has put requirements in place for their producers to meet the 30% DMI and 120 day requirements. Any data that is used to argue that this requirement cannot be met by a great majority of organic dairy farmers is questionable and should not be relied on in the face of many commenters asking for a solid, meaningful enforcement metric.

II. Conclusion

We at CROPP Cooperative do not believe the proposed rule’s requirements for 30% DMI and for annual pasture access minimum of 120 days pose any unique regulatory, paperwork or economic burden on organic dairy farmers. In fact, the record is overwhelmingly clear that organic standards have always included a requirement that dairy cattle have meaningful access to pasture and most dairy farmers already meet or have taken steps to meet or exceed the proposed standard. There is no solid, reliable, current data to demonstrate that farmers cannot meet this standard.

CROPP Cooperative would be pleased to present any additional information upon request regarding the pasture policy, or the auditing and enforcement process.

EXHIBIT A

CROPP Cooperative 2005 Pasture Access Policy



CROPP COOPERATIVE DAIRY POOL PASTURE POLICY

Pasture Requirement

Organics is about integrity and commitment to sustainable farming. CROPP producers sign the CROPP membership agreement and are bound to abide by any additional standards approved by the CROPP Board. The CROPP Board and the Dairy Executive Committee have decided adequate pasture is a critical organic principle within organic livestock production. The following policy is a requirement for all CROPP dairy pool members. A Farm Pasture Plan Affidavit must be on file for each member, demonstrating compliance with the Farm Pasture Plan Standards.

Definitions

Pasture

A pasture consists of a mixture of nutritious grasses, legumes and variable plant species, attached to their respective root systems. Pasture must be managed to prevent degradation of soil and water quality.

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 a specific region. 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 120 days to 365 days.

Grazing Season

The period of time when pasture is available for grazing, due to natural precipitation or irrigation. Grazing season dates may vary because of mid-summer heat /humidity, significant precipitation events, floods, hurricanes, droughts or winter weather events. The grazing season may be extended by the grazing of residual pasture as designated in the producer's organic systems plan. Due to weather, season, and/or climate, the grazing season may or may not be continuous. Grazing season must range from 120 days to 365 days.

Farm Pasture Plan Standards

1. All dairy livestock one year and older, including all groups of lactating cows, must be provided maximum access to pasture and must optimize the dry matter intake grazed from pasture during the region's grazing season, while maintaining:

- a. a minimum requirement of 120 days on pasture per each grazing season.
 - b. a minimum average of 30% dry matter intake grazed from pasture during the region's grazing season.
2. Dry cows must have at least 30 days access to pasture if that coincides with the grazing period for that region.
3. Young stock must have access to pasture after six months of age.
4. The producer must demonstrate a stocking rate of cow units per acre that will sustainably allow for compliance with all other Farm Pasture Plan Standards and prevent degradation of soil and water quality. It is recommended that a sustainable maximum stocking rate not exceed three cow units per acre.
5. Dairy livestock may be allowed temporary exemption to pasture because of:
 - a. Conditions under which the health, safety, or well-being of the animal could be jeopardized.
 - b. Inclement weather
 - c. Temporary conditions which pose a risk to soil and water quality.
6. Dairy livestock may be allowed full exemption to pasture during the following stages of production:
 - a. Birthing
 - b. Young stock under the age of 6 months
7. The Farm Pasture Affidavit must illustrate how the producer will **optimize** the pasture component of the total feed used in the farm system and quantify how the CROPP Pasture Standards will be met.

Resources:

Contact CROPP Membership Services at (888) 809-9297 or your regional pool coordinator for further resources and contact information on improving grazing techniques.

NRCS (Natural Resources Conservation Service): offers guidelines specific to a producer's home locale. Cost-sharing may be available.

CROPP Pasture Mentor Program:

Producers will be available to serve as mentors to help those producers in need to guidance and expertise to expand their pasturing operations.

EXHIBIT B

CROPP Cooperative 2007 Pasture Access Policy



CROPP COOPERATIVE PASTURE POLICY

Pasture Requirement

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Definition of Pasture

A pasture consists of a mixture of nutritious grasses, legumes and variable plant species, attached to their respective root systems. Pasture must be managed to prevent degradation of soil and water quality.

CROPP Pasture Standards

1. A lactating cow must be provided 120 days on pasture per each growing season.
2. A minimum average of 30% dry matter intake of the total lactating cow's diet must come from grazed pasture during that region's grazing season.
3. The stocking rate for pasture is a maximum of three (3) lactating cows per acre of pasture. (If you can demonstrate a higher stocking rate is sustainable on your farm that will be acceptable.)
4. Dry cows must have a least 30 days access to pasture if that coincides with the grazing period for that region.
5. Young animals must have some introduction to pasture after six months of age. After one year of age, they must have access to pasture, coinciding with that region's grazing period.

Farm Pasture Plan Requirements

1. Ruminant livestock must have access to graze pasture during the months of the year when pasture provides edible forage, and the grazed feed must provide a **significant** portion of the feed requirements during those months but no less than a minimum average of 30% dry matter. The Farm Pasture Plan must illustrate how the producer will **optimize** the pasture component of the total feed used in the farm system. The Farm Pasture Plan must quantify how the CROPP Pasture Standards will be met.
2. The producer of ruminant livestock may be allowed temporary exemption to pasture because of:
 - a. Conditions under which the health, safety, or well-being of the animal could be jeopardized.
 - b. Inclement weather
 - c. Temporary conditions which pose a risk to soil and water quality.
3. The producer of ruminant livestock may be allowed exemption to pasture during the following stages of production:
 - a. Dairy stock under the age of 6 months
 - b. Birthing

Resources:

NRCS (Natural Resources Conservation Service): offers guidelines specific to a producer's home locale. Cost-sharing may be available.

CROPP Pasture Mentor Program:

Producers will be available to serve as mentors to help those producers in need to guidance and expertise to expand their pasturing operations.

EXHIBIT C

CROPP Cooperative 2010 Pasture Access Affidavit

**PASTURE PLAN AFFIDAVIT
2010 CROP YEAR**

Producer Name: _____

Farm Address: _____

City, State, Zip: _____

Producer ID Number: _____

Producer Phone Number _____ Cell Phone Number _____

****CROPP Cooperative reserves the right to perform unannounced pasture verification audits to determine compliance with the Pasture Policy. ****

Section 1 - Certified Organic Land Base:

Total acres owned for grazing: _____

Total acres rented or leased for grazing: _____

Milk Cow Grazing:

Total irrigated acres available for grazing: _____

Total non-irrigated acres available for grazing: _____

Total residues acres available for grazing (explain): _____

Dry Cow Grazing:

Total irrigated acres available for grazing: _____

Total non-irrigated acres available for grazing: _____

Total residues acres available for grazing (explain): _____

Yearling Heifers (12-24 Months of Age):

Total irrigated acres available for grazing: _____

Total non-irrigated acres available for grazing: _____

Total residues acres available for grazing (explain): _____

Young Stock (6-12 Months of Age):

Total irrigated acres available for grazing: _____

Total non-irrigated acres available for grazing: _____

Total residues acres available for grazing (explain): _____

Section 2 - Certified Organic Cattle:

Number of Milking Cows: _____

Number of Dry Cows: _____

Number of Yearling Heifers (12-24 Months of Age): _____

Number of Young Stock (6-12 Months of Age): _____

Section 3 – Other Livestock:

Is there any other livestock that graze the same pastures as the cattle noted above? Yes / No
If yes, please list number and type of animal (goat, sheep, horses etc.): _____

Section 4 - Milking Times:

Number of Milking Times per Day: _____
Total Number of Hours Cows are Confined per Day: _____

Section 5 – Grazing/Growing Season—Customary to your region:

Est. start date: _____ Est. end date: _____ Grazing season: _____ (days)
Est. start date: _____ Est. end date: _____ Growing season: _____ (days)
Minus non-grazing days during grazing season (e.g. too hot, to wet): _____ (days)
Equals estimated grazing season: _____ (days)

Section 6 – Average Grazing Season Ration—Milking Cows:

Milking cows: Estimated average animal body weight: _____ lbs.
Estimated milk production: _____ lbs/per cow/day

Total estimated average animal body weight _____ x 4% = _____ TOTAL DRY MATTER INTAKE

Less _____ lbs. Concentrate (grain) x 85% = _____ DRY MATTER
Less _____ lbs Dry Hay x 85%= _____ DRY MATTER
Less _____ lbs Grass Haylage x 45%= _____ DRY MATTER
Less _____ lbs Corn Silage x 35%= _____ DRY MATTER

Equals Daily Grazing Intake of _____ DRY MATTER

Section 7 – Average Grazing Season Ration—Yearling Heifers:

Yearling heifers: Estimated average animal body weight: _____ lbs.

Total estimated average animal body weight _____ x 3% = _____ TOTAL DRY MATTER INTAKE

Less _____ lbs. Concentrate (grain) x 85% = _____ DRY MATTER
Less _____ lbs Dry Hay x 85%= _____ DRY MATTER
Less _____ lbs Grass Haylage x 45%= _____ DRY MATTER
Less _____ lbs Corn Silage x 35%= _____ DRY MATTER

Equals Daily Grazing Intake of _____ DRY MATTER

Section 8 – Pasture Standards Explanation – Please describe your pasture plan and be sure to include an aerial photo or detailed sketch of the farm showing the land designated for pasture. Explain how your farm meets the pasture standards or if you currently do not meet the standards, outline your pasture plan and how you will come in to compliance. (Use additional paper if necessary)

EXHIBIT D

CROPP Cooperative 2009 Pasture Policy



CROPP COOPERATIVE DAIRY POOL PASTURE POLICY

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CROPP Pasture Mentor Program:

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EXHIBIT E
Regional Growth Data 2005

2000				2005			
State	Volume	Producer Numbers	Cow Numbers	State	Volume	Producer Numbers	Cow Numbers
CA	11,269,349	5	686	CA	32,021,682	8	1,950
IA	12,270,938	14	747	IA	20,102,602	26	1,224
IL	1,222,890	1	75	IL	3,268,444	4	199
ME	7,486,330	13	456	ME	21,659,809	27	1,319
MN	20,861,240	32	1,270	MN	51,769,476	71	3,152
NY	2,548,607	4	155	NY	21,150,139	24	1,288
OR	30,924,253	13	1,883	OR	65,975,296	16	4,017
PA	8,888,771	17	541	PA	20,051,759	36	1,221
VT	7,548,241	18	460	VT	38,688,617	61	2,355
WA	10,064,033	3	613	WA	21,393,354	12	1,302
WI	71,760,764	95	4,369	WI	147,264,614	204	8,966
Total	184,845,416	215	11,255	Total	443,345,792	489	26,993

Notes: Cow numbers were derived based on annual volume divided by 365 days @ 45# per cow per day

Production Volume Summary				
States	Region	2000	2005	% Volume Change
NY/PA/VT/ME	Northeast	26,471,949	101,550,324	284%
WI/MN	Upper MW	92,622,004	199,034,090	115%
IA/IL	Corn Belt	13,493,828	23,371,046	73%
OR/WA/CA	West	52,257,635	119,390,332	128%
Total		184,845,416	443,345,792	140%

Cow Number Summary				
States	Region	Cows 00	Cows 05	% Cows change
NY/PA/VT/ME	Northeast	1,612	6,183	284%
WI/MN	Upper MW	5,639	12,118	115%
IA/IL	Corn Belt	822	1,423	73%
OR/WA/CA	West	3,182	7,269	128%
Total		11,255	26,993	140%

Producer Number Summary				
States	Region	Producers 00	Producers 05	% Producers Change
NY/PA/VT/ME	Northeast	52	148	185%
WI/MN	Upper MW	127	275	117%
IA/IL	Corn Belt	15	30	100%
OR/WA/CA	West	21	36	71%
Total		215	489	127%