MCS Policy - Transitioning Dairy Cows & Sourcing Transition Cows

§205.236 ORIGIN OF LIVESTOCK

205.236(a)(2): *Dairy animals. Subject to the requirements of this paragraph, an operation that is not certified for organic livestock and that has never transitioned dairy animals may transition nonorganic animals to organic production only once. After the one-time transition is complete, the operation may not transition additional animals or source transitioned animals from other operations; the operation must source only animals that have been under continuous organic management from the last third of gestation. Eligible operations converting to organic production by transitioning organic animals under this paragraph must meet the following requirements and conditions:*

Transitioning a Dairy Herd

Dairy operations converting to organic production or dairy operations starting a new organic farm may transition nonorganic animals one time only.

Operations previously or currently certified as a dairy operation are not permitted a one-time transition. Once an operation has been certified organic for dairy production, animals can't be transitioned, even if the operation has never transitioned animals.

Operations that reapply following surrender of certification for organic dairy are not permitted a new transition, as they have been previously certified for organic dairy production.

MCS may allow livestock operations that have never been certified for dairy animals to be permitted a one-time transition under certain circumstances as follows:

Permitted

- Nonorganic brood cows whose milk is solely intended to be provided to their calves in accordance with 205.236 are not considered dairy animals. Therefore, if an operation solely certifies beef cattle and all milk from nonorganic brood cows is provided to their own calves, it would not be considered a dairy operation. It may be possible for the operation to add the dairy production scope to their organic certification as an approved one-time transition for the distinct new dairy herd.

- If an organic livestock operation has never been certified to the dairy scope, they may be permitted a one-time transition for organic dairy animals. For instance, if an operation has solely been certified for meat goats, and they would like to add dairy goats, they could be permitted a one-time transition for a dairy goat herd, if their certificate has never listed dairy or milk.

Not Permitted

- If an operation has ever been certified organic to the dairy scope, regardless of species, they are not permitted to transition any other dairy species again. For example, if an operation is certified for dairy goats and they would like to add dairy cows, a transition would not be allowed; all dairy cows must be organic from the last third of gestation.

- Operations certified as heifer-raising operations are considered dairy operations per the NOP. Therefore, if an operation solely raises dairy heifers, they are not permitted a transition.

In summary, if an operation has ever been certified to the dairy scope, they are not permitted a transition of any dairy species.

Sourcing Transitioned Cows

The sourcing of transitioned cows on organic dairy operations is prohibited. The term “source” has a meaning that is broader than “purchase.” For example, the acquisition of transition animals on an organic dairy operation, when the transaction does not include a financial exchange, is not permitted.

Additionally, an organic operation could not source transitioned animals under the circumstances where transitioned animals are milked but not owned by that organic operation, such as a lease arrangement, as a means of continually bringing transitioned animals into milk production.

In summary, movement of transitioned animals between organic operations is prohibited. MCS reviews a producer’s organic system plan to ensure that no operation, once certified, sources transitioned animals.

Variances

205.236(d): *A request for a variance to allow sourcing of transitioned animals between certified operations must adhere to the following:*

A certified operation that qualifies as a small business may request a variance from the prohibition on the movement of transitioned animals for specific circumstances including:

- The certified operation selling the transitioned animals is part of a bankruptcy proceeding or a forced sale

- The certified operation has become insolvent, must liquidate its animals, and as a result has initiated a formal process to cease its operations

- The certified operation wishes to conduct an intergenerational transfer of transitioned animals to an immediate family member.

MCS must request a variance on behalf of the certified operation, in writing, to the USDA-NOP Administrator. To apply for a variance please contact MCS.

Please note that a new applicant does not need to apply for a variance to source transition cows because they are permitted to acquire transitioned animals as part of their one-time transition allowance. A new applicant can purchase already-transitioned animals and start milking without completing a transition; this event counts as the operation's one-time allowance.

Please contact MCS at certification@mofga.org or by phone at 207-568-6030 for more information. If you have any questions about the Origin of Livestock final rule please contact your specialist at MCS.