

Selling Live certified organic Livestock: Guidance for MCS Certified Producers

by MCS Staff

Live Organic Livestock Sales and Fraud

Background: The February 2021 “USDA Organic Oversight and Enforcement Update” included information covering, in part, increasing complaints related to fraud in the sale of live organic livestock:

Complaints of fraud in live animal sales increased in 2020. Investigations initiated at the direction of the National Organic Program (NOP) resulted in several livestock sale barns surrendering their organic certificates immediately following on-site inspections. NOP has recruited additional Federal investigators with significant experience in USDA livestock enforcement to improve traceability in organic cattle movement nationwide.

Certified organic producers must understand when the NOP requirements for organic certification apply to haulers, handlers, stockyards and auction houses. If your farm sells individual, certified organic livestock products (i.e., meat), the slaughterhouse must be certified organic.

Do livestock haulers need to be certified organic?

If you are looking at options to transport live certified organic livestock from your farm to a certified organic slaughterhouse, please keep in mind the following:

Individuals or operations that sell organic products not in final packages or containers must obtain certification. (Keep in mind that the USDA NOP program considers live organic livestock to be an unpackaged product.)

Individuals or operations that solely provide a transportation service for organic unpackaged products (hay, grain, livestock, etc.) do not need to be certified provided the transportation is compliant and the relationship between the parties is clearly described under the certified operations organic system plan. The following NOP citation reminds the producer that it is their responsibility to

notify the certifier of changes to the Organic System Plan, as it pertains to hauling and transport:

§ 205.400 (f) (2) General requirements for certification.

A person seeking to receive or maintain organic certification under the regulations in this part must:

(a) Comply with the Act and applicable organic production and handling regulations of this part (f) Immediately notify the certifying agent concerning any:

(2) Change in a certified operation or any portion of a certified operation that may affect its compliance with the Act and the regulations in this part.

What does this mean?

The USDA National Organic Program considers livestock to be unpackaged products, and therefore all handling and sales of live animals require organic certification. For more information, please review the following NOP handbook document, “Certification Requirements for Handling Unpackaged Organic Products”: ams.usda.gov/sites/default/files/media/5031.pdf.

An operation that transports unpackaged organic products does not need to obtain certification if it does not handle (i.e., sell, process, or package) organic products.

Example 1:

Farmer Swanson calls MCS and wants to ship their organic slaughter-eligible dairy cow for organic slaughter at a certified organic slaughterhouse in Maine. They hire and pay Superior Livestock Haulers for transporting the organic cow directly to the organic slaughterhouse. Once the organic slaughter and meat packaging is complete, Swanson will pick up the processed organic slaughter order. Swanson pays the slaughterhouse and the hauler separately for their services. This is allowed under the USDA NOP exemptions.

Example 2:

Farmer Swanson calls MCS and says, “I heard of a guy hauling organic slaughter cows out of state. He is not certified, but he will only stop along his route in Maine

to pick up the rest of the certified load and then continue straight to the certified organic slaughterhouse. The hauler, Superior Livestock Hauling, will hand our certification paperwork to the final buyer and we will be paid by the organic slaughterhouse once we know hanging weights. It will come in a printout with the payment. Is this allowed?” Yes, this is allowed under the USDA NOP exemptions.

Example 3:

Farmer Swanson calls MCS, and says, “I have two cows I am going to cull and they are organic slaughter eligible, but I don’t care if they are sold as certified organic. I am selling them on the hoof and the slaughterhouse is not certified, but Superior Livestock Haulers can pick them up today and they need to go. Is this ok?” Yes, but remember, the cows will lose their certified organic status because the slaughterhouse is not certified organic.

When it comes to selling live organic livestock, the following transactions are not exempt from organic certification.

Example 4:

Farmer Swanson calls MCS, stating the farm wants to ship their certified organic livestock for organic slaughter out of state. The hauler will pay them a small advance and settle with the farm once the hauler is paid by the organic slaughterhouse, but they need to provide the farm’s organic certificate and product verification showing slaughter eligibility. This would not be exempt and the hauler would need to be certified. Why? Superior Livestock Haulers completed a transaction with the farm and it implies an instance of buying as opposed to hauling, which is considered a business deal.

Example 5:

Farmer Swanson calls MCS again, and says, “Remember, I called you about shipping the dairy cows eligible for organic slaughter out of state last week? Well, it didn’t happen. Superior Livestock

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Haulers did not have enough cows to make the run worth it. So they kept the organic cows at a conventional barn for a few days while they drummed up a few organic slaughter eligible cows to fill out the load. Superior Livestock Haulers buys all its hay from certified organic farms, so it should be ok? Right? **Wrong. The organic livestock lose their certified organic status. This is an example of an uncertified handling facility.**

Please refer to the USDA's [Organic Integrity Database](#) (OID), a public search engine to verify if an operation is certified organic.

MCS will continue onsite inspections for records verification of live organic livestock transport to ensure producers are meeting the requirements of organic slaughter eligibility and maintaining organic integrity, as described in §205.103 Recordkeeping: "... producers are responsible for auditable records that demonstrate organic integrity and the origin of livestock being preserved." Please contact your specialist at MCS for specific record keeping requirements.

Certified organic producers are expected to understand their responsibility in verifying the organic slaughter eligibility of transport is met, and to utilize compliant practices when arrangements are made with slaughterhouses and haulers.

Please refer to the two guidance documents on our website, Organic Livestock Transportation (https://mofgacertification.org/wp-content/uploads/Livestock_2022_OrganicLivestockTransportation.pdf) and Buying & Selling at Auction (https://mofgacertification.org/wp-content/uploads/Livestock_2022_BuyingSellingAtAuction.pdf), for more information.

If you have any questions around selling live organic livestock, please reach out to Jacki Perkins (jperkins@mofga.org) in MOFGA's farmer programs department or your specialist at MCS.

Temporary Confinement in Organic Livestock and Poultry Production

by Jade Archer, Certification Specialist

There are circumstances when farmers feel the need to temporarily confine their livestock or poultry. Temporary confinement is when animals are restricted from the outdoors for a limited period of time. Denial of pasture is when animals are restricted from actively grazing but still may have access to the outdoors. Temporary is defined as "occurring for a limited time only (e.g., overnight, throughout a storm, during a period of illness) not permanent or lasting."

NOP §205.239 Livestock Living Conditions permits livestock temporary confinement from the outdoors and/or denial of pasture in limited instances as described below:

- Stage of life (e.g., chickens during feathering, molting). Lactation is not a stage of life.
- Inclement weather (e.g., violent weather, extreme high or low temperatures, excessive precipitation). Weather events are short-term events as opposed to seasonal patterns, which are long-term events — confinement during an entire season is prohibited.
- Risk to the health, safety, or wellbeing of the animals (e.g., predator observed).
- Risk to soil or water quality.
- Preventative healthcare procedures, such as treating an illness or injury.
- Sorting and shipping animals.
- 4-H and other youth projects — one week before, during, and one day after the event.
- Breeding — only during the act of breeding; confinement to observe heat cycles is not allowed. Animals confined for breeding (artificial insemination or a bull) must still have daily access to the outdoors, and must achieve 30% dry matter intake (DMI) from pasture for 120 days during that season.

- Prior to birthing — for three weeks, during birthing, and one week just after birthing.
- One week for drying off dairy animals (restricting pasture but animals still have outdoor access).
- During milking for dairy animals.
- Newborn dairy cattle up to 6 months old, provided that calves are not confined or tethered in a way that prevents them from standing up, lying down, fully extending their limbs, and moving freely in the space.
- Short periods for shearing fiber animals.

[NOP Policy Memo 11-12](#) "Confinement of Poultry Flocks Due to Avian Influenza, or Other Infectious Diseases" describes ways in which producers can protect their organic poultry flocks during disease outbreaks, while still maintaining organic certification. In early 2022, highly pathogenic avian influenza (HPAI) was detected in a number of counties in the Northeast. Organic poultry may be confined on a temporary basis in areas in proximity to low or highly pathogenic avian influenza. Producers must work with their certification specialist to determine the proper method and duration of confinement. If you have any questions about HPAI please contact Jacki Perkins (jperkins@mofga.org) from MOFGA farmer programs.

Continuous confinement of livestock from the outdoors is prohibited. Livestock must have year-round access to the outdoors. Organic ruminant animals must obtain a minimum of 30% dry matter intake from pasture, averaged over the entire grazing season for each type and class of animal. The grazing season must consist of at least 120 days, but may be greater depending on regional weather conditions.

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