

# Proposition 12 Update

OC FOOD SAFETY ADVISORY COUNCIL  
 JULY 19, 2023  
 DR. LIZ COX  
 CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

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## Outline of Presentation

- Introduction
  - Animal Care Program
  - Proposition 12 (2018)
  - Animal Confinement Regulations
- Regulatory Framework
- Commercial Sale
- Covered Products
- Shipping Document Markings
- End-user Questions
- Website Tour



July 2023

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## Animal Care Program

Animal Care is a new program within the Animal Health and Food Safety Services division of the California Department of Food and Agriculture.

Animal Care implements:

- California Health and Safety Code (Prop 12)
  - HSC §§ 25990-25994
- California Code of Regulations
  - 3 CCR §§ 1320-1327.3



July 2023

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## Prop 12 (2018)

Ballot Initiative passed by California voters in 2018 (63% YES)

Two categories of prohibited activities:  
**Confinement of Animals in California**  
 • Egg-laying hens, breeding pigs, and veal calves

Sale of Covered Products in California **HSC section 25990(b)**  
 (b) A business owner or operator shall not knowingly engage in the sale within the state of any of the following:  
 (1) Whole veal meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner.  
 (2) Whole pork meat that the business owner or operator knows or should know is the meat of a covered animal who was confined in a cruel manner, or is the meat of immediate offspring of a covered animal who was confined in a cruel manner.  
 (3) Shell egg that the business owner or operator knows or should know is the product of a covered animal who was confined in a cruel manner.  
 (4) Liquid eggs that the business owner or operator knows or should know are the product of a covered animal who was confined in a cruel manner.

HSC §§ 25990-25994 July 2023

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## Animal Confinement Regulations

California Code of Regulations  
 • 3 CCR §§ 1320-1327.3

Finalized and went into effect September 1, 2022

Regulatory framework for implementing Prop 12 to ensure covered products sold in California are compliant with covered animal confinement standards.

Modeled after USDA's National Organic Program regulatory framework.



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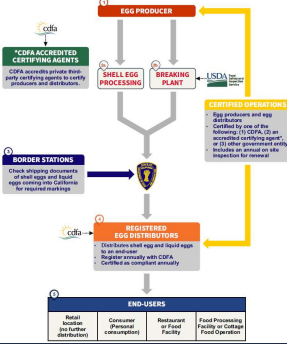
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## Regulatory Framework



[https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Regulatory\\_Framework\\_Eggs.pdf](https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Regulatory_Framework_Eggs.pdf) July 2023

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## Regulatory Framework

**"End-user"** means any of the following:

- (1) A consumer
- (2) A retailer that is not a producer and only conducts commercial sales directly to a consumer, without any further distribution, of covered product
- (3) A food processing facility or cottage food operation that receives covered product solely for use as an ingredient to manufacture a combination food product or noncovered product
- (4) A restaurant, food facility or other business that only cooks and serves covered product to customers, patrons or guests for purposes of consumption

[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Regulatory\\_Framework\\_Eggs.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Regulatory_Framework_Eggs.pdf) July 2023

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## Regulatory Framework

**January 1, 2023**  
**Distributors required to register with CDFA. CDFA is still accepting applications.**

**January 1, 2024**  
**Distributors required to be third-party certified for new registrations and renewals.**

**Producers required to be third-party certified as compliant with laws and regulations.**

[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Regulatory\\_Framework\\_Eggs.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Regulatory_Framework_Eggs.pdf) July 2023

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## Commercial Sale (1 of 3)

"Commercial sale" means to sell, exchange, barter, trade, transfer title or possession, or distribute, conditional or otherwise, in California commerce including, but not limited to, transactions by a retailer with a consumer and electronic transactions made using the internet.

"Sale" Under Prop 12 Guidance  
[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Prop12\\_SalesGuidance.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Prop12_SalesGuidance.pdf)

3 CCR §§ 1320, 1321, 1322 July 2023

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## Commercial Sale (2 of 3)

It shall **not** include any of the following transactions or transfers of possession, which apply only to a specific transaction listed below, not to the covered product itself, and **therefore does not apply to all subsequent commercial sales of covered product**:

- Any sale of shell eggs or liquid eggs undertaken on the premises of an official plant at which mandatory inspection is provided under the federal Egg Products Inspection Act (21 U.S.C. Sec. 1031 et seq.) and that holds an establishment number (prefix "G") granted by the Food Safety Inspection Service of the United States Department of Agriculture
- Any sale of whole pork/veal meat undertaken on the premises of an establishment at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et seq.) and that holds an establishment number (prefix "M") granted by the Food Safety Inspection Service of the United States Department of Agriculture

3 CCR §§ 1320, 1321, 1322 July 2023

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## Commercial Sale (3 of 3)

It shall **not** include any of the following transactions or transfers of possession, which apply only to a specific transaction listed below, not to the covered product itself, and **therefore does not apply to all subsequent commercial sales of covered product**:

- Covered product produced outside of the state that enters and exits California, without additional processing or repackaging, exclusively for purposes of transshipment or export outside of the state
- Any sale that is made directly to federal agencies or that takes place on federal lands located within the state
- Any sale of covered product which takes place on tribal lands located within the state
- Donations to nonprofit organizations that have a tax exemption under section 501(c)(3) of the Internal Revenue Code (26 U.S.C.)

3 CCR §§ 1320, 1321, 1322 July 2023

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## Covered products

<p><b>SHELL EGGS</b></p> <p>Pasteurized and unpasteurized</p> <p>Hard cooked</p>	<p><b>LIQUID EGGS</b></p> <p>Liquid, dried, frozen, separated into whites and yolks</p> <p>Only added preservatives, stabilizers, flavoring</p> <p>Cooked egg pucks</p>	<p><b>WHOLE VEAL MEAT</b></p> <p>Uncooked cuts of meat (excluding ground)</p> <p>Does not include RTE products</p>	<p><b>WHOLE PORK MEAT</b></p>
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HSC §§ 25990-25994 and 3 CCR §§ 1320, 1321, 1322 July 2023

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## Shell Eggs

"Shell egg" means a whole egg of an egg-laying hen in its shell form, intended for use as human food.

"In its shell form" means an egg as developed, proportioned and shaped in the shell by an egg-laying hen, whether it is in the shell, raw, pasteurized in the shell, treated in the shell, hardboiled, or otherwise cooked in whole form, peeled, co-packaged with other foods, or subsequently sold sliced, chopped, or otherwise cut.

HSC § 25991 and 3 CCR § 1320 July 2023

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## Liquid Eggs

"Liquid eggs" means the product defined in section 25991(l) of the Health and Safety Code intended for use as human food, whether it is raw or pasteurized, co-packaged with other foods, or sold frozen, dried, freeze-dried, or as a cooked patty, puck, or other cooked form, and shall include all of the following:

- Liquid eggs, dried eggs, frozen eggs, egg whites, dried egg whites, frozen egg whites egg yolks, dried egg yolks, frozen egg yolks.
- Any mixture, irrespective of proportions, of two or more of the products specified in this subsection.
- Any product, or mixture of products, specified in this subsection to which has been added no more than sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers, or other similar food additives.
- Any product represented to the customer as, or bearing the statement of identity of, liquid eggs, or any of the products specified in this subsection on the product label according to section 101.3 of Title 21 of the Code of Federal Regulations (April 2021).

HSC § 25991 and 3 CCR § 1320 July 2023

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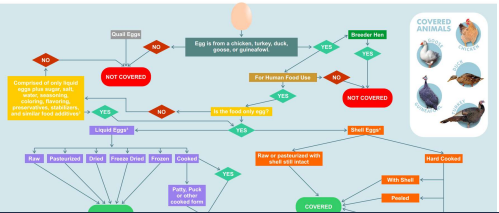
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## Eggs Guidance

Visit Animal Care Program website for more guidance

**EGGS COVERED UNDER ANIMAL CONFINEMENT\***



[https://www.cdfa.ca.gov/AHFS/AnimalCare/docs/Eggs\\_Covered\\_Under\\_Animal\\_Confinement.pdf](https://www.cdfa.ca.gov/AHFS/AnimalCare/docs/Eggs_Covered_Under_Animal_Confinement.pdf) July 2023

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## Whole Pork Meat

"Whole pork meat" means any uncooked cut of pork, including bacon, ham, chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin, or cutlet, that is comprised entirely of pork meat, except for seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.

Whole pork meat does not include combination food products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food products, that are comprised of more than pork meat, seasoning, curing agents, coloring, flavoring, preservatives, and similar meat additives.

HSC § 25991, 3 CCR §§ 1322 and 1321 (veal) July 2023

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## Meat Definition

HSC 25991

"Pork meat" means meat, as defined in Section 900 of Title 3 of the California Code of Regulations as of August 2017, of a pig of the porcine species, intended for use as human food.

3 CCR 900

"Meat" means the part of the muscle of any cattle, sheep, swine, goats or fallow deer that is skeletal or that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels that normally accompany the muscle tissue and that are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.

HSC § 25991, 3 CCR § 900 July 2023

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## Cut Definition

"Cut" means any uncooked primal, wholesale, sub-primal or retail cut including, but not limited to, those identified and described in the United States Department of Agriculture's Institutional Meat Purchase Specifications: Fresh Pork Series 400 (November 2014 Edition) and the 2014 Uniform Retail Meat Identity Standards developed by the Industry-Wide Cooperative Meat Identification Standards Committee **but shall exclude any ground or otherwise comminuted meat products.**



3 CCR §§ 1322 and 1321 (veal) July 2023

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## Uncooked Pork and Veal

Sales of RTE pork/veal meat do not fall under Prop 12

"Ready-to-eat (RTE)" means in a form that is edible without additional preparation to achieve food safety and may receive additional preparation for palatability or aesthetic, gastronomic, or culinary purposes. RTE product is not required to bear a safe-handling instruction (as required for non-RTE products by sections 317.2(f) and 381.125(b)) of Title 9 of the Code of Federal Regulations (January 2021), hereby incorporated by reference, or other labeling that directs that the product must be cooked or otherwise treated for safety and can include frozen meat products.

3 CCR §§ 1322 and 1321 (veal) July 2023

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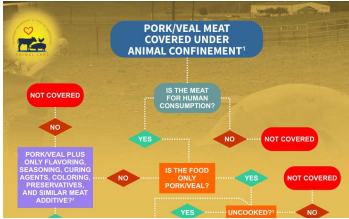
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## Pork Meat Guidance

Visit Animal Care Program website for more guidance



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graph TD
    Start[PORK/VEAL MEAT COVERED UNDER ANIMAL CONFINEMENT*] --> Q1{IS THE MEAT FOR HUMAN CONSUMPTION?}
    Q1 -- NO --> NotCovered1[NOT COVERED]
    Q1 -- YES --> Q2{IS THE FOOD ONLY PORK/VEAL?}
    Q2 -- YES --> Uncooked{UNCOOKED?}
    Q2 -- NO --> NotCovered2[NOT COVERED]
    Uncooked -- YES --> NotCovered3[NOT COVERED]
    Uncooked -- NO --> NotCovered4[NOT COVERED]
    
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[https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Pork\\_and\\_Veal\\_Covered\\_Under\\_Animal\\_Confinement.pdf](https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Pork_and_Veal_Covered_Under_Animal_Confinement.pdf) July 2023

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## Shipping Document Markings

Specific statement required on all documents of title and shipping documents accompanying covered product transported into and within California:

- "Egg CA Prop 12 Compliant"
- "Veal CA Prop 12 Compliant"
- "Pork CA Prop 12 Compliant"

When receiving a shipment of covered product, appropriate statement is required to be on all documents of title and shipping documents.

Other statements where covered product is not intended for use in California: "For Export", "For Transshipment", "Not Prop 12 Compliant".

**No product labeling specific to Prop 12 required**

[https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Shipping\\_Document\\_Guidance.pdf](https://www.cdfa.ca.gov/AHFSS/AnimalCare/docs/Shipping_Document_Guidance.pdf) July 2023

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## As an End-User (Retail, Restaurant, Food Processor):

**13. As a retailer, what are the next steps I need to take to ensure compliance with statutory and regulatory requirements?**

Individual retail locations are not required to register with CDFA. While sales of covered product which take place between a retailer and a customer fall under Prop 12, retailers benefit from a good-faith reliance rule if they receive a written certification of compliance from their distributors. Specifically, HSC section 25993.1 states that it shall be a defense to any action to enforce subdivision (b) of Section 25990 that a business owner or operator relied in good faith upon a written certification by the supplier that the whole veal meat, whole pork meat, shell eggs, and liquid eggs at issue was not derived from a covered animal who was confined in a cruel manner, or from the immediate offspring of a breeding pig who was confined in a cruel manner. If retailers have documentation that all covered products are from registered distributors, those distributors should have the ability to trace product to compliant farms. An audit trail (3 CCR sections 1320(b), 1321(b), 1322(b)) is not required for noncompliant whole pork meat in physical possession of the retailer, a pork distributor (3 CCR Section 1332(i)), and establishments under mandatory inspection under the Federal Meat Inspection Act and issued an establishment number with prefix of "N" and self-certified as being in their possession by July 1, 2023.

If the retailer purchases covered product directly from a facility with mandatory inspection under the Federal Meat Inspection Act or Egg Products Inspection Act and the facility is not a registered distributor, then the retailer is required to maintain records documenting written certifications of compliance for the covered product sold at that location.

[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/prop\\_12\\_faq.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/prop_12_faq.pdf) July 2023

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## Registered Distributors

Currently have 915 registered distributors  
Listed on Animal Care Program's website  
Distributors required to obtain third-party certification

- Renewed annually
- Demonstration of audit trail requirement → covered product traceable back to a compliant producer

[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Registered\\_Distributors.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/Registered_Distributors.pdf) July 2023

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## July 1, 2023 Questions

**3. What do end-users (3 CCR section 1322(i)) and pork distributors (3 CCR section 1322(i)) do with noncompliant whole pork meat in their physical possession on July 1, 2023?**

We recognize that current inventory is transient and current stocks of noncompliant whole pork meat will eventually be cleared from pork distributors and retail stores in California. CDFA understands that there will necessarily be a period of transition over the next six months. The declaratory and injunctive relief against enforcement of the prohibition on intrastate sales of whole pork meat pursuant to Health and Safety Code Sections 25990(b)(2) and 25991(a)(3), as imposed by the Court in *Hispanic Chambers of Commerce v. Ross* (Case No. 34-2021-80003785), terminates on July 1, 2023, except with respect to noncompliant whole pork meat that:

1. as of July 1, 2023, is in the possession of an "end-user" (Cal. Code Regs., tit. 3, § 1322, subd. (c)) or a "pork distributor" (i.e., subd. (i)) or on the premises of an establishment at which mandatory inspection is provided under the Federal Meat Inspection Act (21 U.S.C. Sec. 601 et seq.) and that holds an establishment number (prefix "N") granted by the Food Safety Inspection Service of the United States Department of Agriculture ("federally-inspected entity");
2. is self-certified by the end-user, pork distributor, or other federally-inspected entity to have been in their possession or was in the possession of another end-user, pork distributor, or other federally-inspected entity as of July 1, 2023; and
3. is ultimately sold, transferred, exported, or donated on or before December 31, 2023.

CDFA reiterates that for the remainder of 2023, we intend to focus our implementation resources on 1) outreach to ensure that all distributors who are required to register do so; 2) accreditation of third-party certifying agents so that when third-party certification is required for producers and distributor registrars beginning on January 1, 2024, producers and distributors have more options; 3) certification of producers and distributors, and 4) complaint-based investigations.

[https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/prop\\_12\\_faq.pdf](https://www.cdffa.ca.gov/AHFSS/AnimalCare/docs/prop_12_faq.pdf) July 2023

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## As Retailer or Food Processing Facility that is an End-User



And purchasing covered products **directly from** a facility under mandatory FSIS inspection (ex. breaking plant for eggs, slaughter or fabrication plant for meat) that has not voluntarily registered as a distributor, shall:

- Maintain records documenting written certifications covered product received during the preceding 12-month period.
- Maintain records documenting the address of the location where the retailer or food processor, as the buyer, takes physical possession of covered product for each sales transaction.
- Make these required records available on-site for inspection by the CDFA upon request. Electronic records are considered on-site if they are accessible from an on-site location.

3 CCR §§ 1320.8, 1321.8 and 1322.8 July 2023

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## If you are a retail chain with multiple retail locations:



- Register your internal warehouse distribution centers
- Definition of a distributor: a person or facility engaged in the business of **commercial sales or distribution** of covered product (as a producer or otherwise) to an end-user in California. This definition shall not apply to a person or facility that only receives covered product as an end-user.



3 CCR §§ 1320.2, 1321.2 and 1322.2 July 2023

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## Animal Care Program Website

<https://www.cdfa.ca.gov/AHFSS/AnimalCare/>



Animal Care Program  
Proposition 12, Farm Animal Confinement  
Distributor Registration Required by January 1, 2023.

July 2023

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**Questions**

For more information, visit Animal Care Program's website and click on "Guidance Documents"

[AnimalCare@cdfa.ca.gov](mailto:AnimalCare@cdfa.ca.gov)  
[www.cdfa.ca.gov/AHFSS/AnimalCare](http://www.cdfa.ca.gov/AHFSS/AnimalCare)



Scan to find all Animal Care Program social media links



July 2023

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