

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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330 CMR 35.00 – FAQ

What is 330 CMR 35.00?

330 CMR 35.00 implements a state statute - An Act to Prevent Cruelty to Farm Animals. As required by the law, this regulation implements farm animal housing standards for swine, calves raised for veal, and egg-laying hens that produce certain pork, veal, egg, and egg products for sale. The regulation describes the process by which farms, food processors, distributors, retail outlets, and restaurants can be compliant with these standards.

When does the regulation take effect?

330 CMR 35.00 was promulgated on June 10, 2022. It replaced the regulation promulgated by the Massachusetts Attorney General's Office, codified at 940 CMR 36.00, which took effect on January 1, 2022. The requirements for the housing of egg-laying hens and calves raised for veal have been in effect since January 1, 2022. The requirements for housing of female breeding swine took effect on August 15, 2022. The requirements related to the sale of whole pork meat in Massachusetts are scheduled to take effect on August 24, 2023, with the temporary exception of whole pork meat being transshipped through Massachusetts. Ongoing litigation will determine if and when any rules would apply to transshipped whole pork meat. Massachusetts will not be enforcing the regulation with respect to transshipped whole pork meat until it has resolved pending litigation. The status of the litigation may be found in court records. See *Massachusetts Restaurant Ass'n et al. v. Campbell et al.*, Civil Case No. 4:22-cv-11245-MRG (D. Mass.) (Worcester); *Triumph Foods, LLC et al. v. Campbell et al.*, Civil Case No. 1:23-cv-11671-WGY (D. Mass.) (Boston).

What is transshipped whole pork meat?

Transshipped whole pork meat is covered product produced outside of Massachusetts that enters and exits Massachusetts without additional processing or repackaging, exclusively for the purpose of sale or export outside of Massachusetts.

Is a Massachusetts distributor of whole pork meat exempt from this regulation if it is selling in Massachusetts whole pork meat raised in other states to customers in other states?

No, the distributor is not exempt, but the regulation is not currently being enforced in this situation under the temporary exception for transshipment referenced above.

My company sells whole pork meat and whole veal meat wholesale to a Massachusetts company who only sells their products out of state (outside Massachusetts). Do the regulations apply to us?

Yes, but with respect to whole pork meat, the regulation is not currently being enforced in this situation under the temporary exception for transshipment referenced above.

My company takes possession of non-compliant whole pork meat in another state, it is brought through our distribution hub in Massachusetts and then is shipped out of Massachusetts for sale in other states. Is this a violation of 330 CMR 35.00?

No, if your company takes possession of product outside of Massachusetts and then delivers to a customer who is also outside of Massachusetts, no sale has taken place in Massachusetts.

What about covered products that are already in the supply chain?

The prohibition of the sale of non-compliant shell eggs and other egg products and the sale of whole veal meat is already in effect. A lawsuit in Massachusetts extended the effective date of compliance for whole pork meat to August 23, 2023. 330 CMR 35.04(1)(c) clarifies that whole pork meat products already in the supply chain as of and including August 23, 2023, shall be deemed compliant. Please note that the covered product “in the supply chain” as of August 23, 2023, and therefore deemed compliant, is “whole pork meat”. That term is defined in the regulation and does not include live animals. Please also note that the age or birth date of an animal on a farm is not relevant to determining compliance.

Does the regulation only apply to covered animals in Massachusetts, or do covered products sourced from animals raised outside of Massachusetts need to be compliant to be sold in Massachusetts?

All covered products sold in Massachusetts must be compliant, regardless of whether the products were derived from covered animals raised on farms within or outside Massachusetts.

For example, whole pork meat sold in Massachusetts is compliant (or not compliant) with 330 CMR 35.00 based on the housing conditions of the breeding pig from which the offspring harvested to create the whole pork meat came, regardless of whether that breeding pig is within or outside of Massachusetts, subject to the temporary exception referenced above.

What products are considered “whole pork meat”?

“Whole Pork Meat” is defined in 330 CMR 35.02 as, “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, hot dogs, 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.”

Is sausage considered “whole pork meat”?

No. Sausage would be a similar processed or prepared food product like a hot dog, and its sale is not covered by the regulation.

What about comminuted pork—is that “whole pork meat”?

Yes. USDA’s Food Safety and Inspection Service describes comminuted pork as “Reduction of meat particle size, using such methods as grinding, dicing and chopping.” The passing of whole pork meat through a grinder or cutting it into smaller and smaller pieces through chopping, dicing, mincing, flaking, or other processes that reduces it to minute particles, does not alter the meat’s identity as being anything but whole pork meat. For the purposes of 330 CMR 35.00, ground pork and comminuted pork are considered whole pork meat.

Is “marinated” pork considered “whole pork meat”?

Yes. Based on the language in the statute and 330 CMR 35.02, whole pork meat is “comprised entirely of Pork Meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar Meat additives” If the “marinated” pork has only Pork Meat and the above-referenced additives, it is considered “whole pork meat” and would need to be compliant with the regulation.

If a facility in Massachusetts receives voluntary inspection services from USDA-FSIS per 9 CFR Part 350 (ID services, export certification), is that facility exempt from 330 CMR 35.00?

No. The definition of “Sale” in 330 CMR 35.02 and the authorizing statutes does not include any sale undertaken at an establishment at which inspection is provided under the Federal Meat Inspection Act or any sale undertaken at an official plant at which mandatory inspection is maintained under the federal Egg Products Inspection Act. The Federal Meat Inspection Act imposes mandatory inspection for establishments whether operating day or night. Voluntary inspection service programs fall outside of those requirements, and therefore are not exempt from the definition of “Sale” in the regulation.

Are distributors required to obtain separate certifications for each transaction/each day, or does a system exist for a single company to provide blanket certifications for all its shipments of covered products into Massachusetts?

330 CMR 35.05(3) allows the use of a single blanket certification that applies to all of a Person's or entity's products, provided that all such products are compliant with the relevant statutes and the regulation at the time of the commercial transaction involving the covered product. Such certifications also need to be renewed annually.

Is MDAR considering proposing to amend the regulations?

Yes. Proposed revisions to the regulation are being considered. Any changes will be made in accordance with M.G.L. c. 30A.