

330 CMR 35.00 DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 35.00: REGULATIONS IMPLEMENTING THE ACT TO PREVENT CRUELTY TO FARM ANIMALS

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35.01: Scope

330 CMR 35.00 applies only to the production and Sale of Veal Meat, Pork Meat, Shell Eggs, and Egg Products in Massachusetts as defined in St. 2021, c. 108.

35.02: Definitions

Act. An Act to Prevent Cruelty to Farm Animals as enacted in St. 2016, c. 333, as amended by St. 2021, c. 108, “An Act further regulating hen welfare and establishing cage-free standards.”

Breeding Pig. Any female pig of the porcine species kept for the purpose of commercial breeding.

Business Owner or Operator. Any Person who owns or controls the operations of a business.

Cage-free Housing System. An indoor or outdoor controlled environment for Egg-laying Hens within which Hens are free to roam unrestricted, are provided enrichments that allow them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes and dust bathing areas, and within which Farm employees can provide care while standing within the Hens’ usable floor space; provided, however, that Cage-free Housing System shall include, to the extent that such systems comply with the requirements of this definition, Multi-tiered Aviaries, Partially-slatted Systems, Single-level All Litter Floor Systems and any future systems that will comply with the requirements of Cage-free Housing System; provided further, that Cage-free Housing System shall not include systems commonly described as “battery cages”, “colony cages”, “enriched cages”, “enriched colony cages”, “modified cages”, “convertible cages” or “furnished cages” or other similar cage systems.

Calf Raised for Veal. Any calf of the bovine species kept for the purpose of commercial production of Veal Meat.

Certify. To make the sworn representations specified in 330 CMR 35.05.

Confined in a Cruel Manner. Confining:

(a) a Calf Raised for Veal or a Breeding Pig in a manner that prevents the animal from lying down, standing up, Fully Extending the Animal's Limbs or Turning around Freely; or (b) an Egg-laying Hen in an Enclosure other than a Cage-free Housing System or with less than:

1. one square foot of usable floor space per Hen in Multi-tiered Aviaries, Partially-slatted Cage-free Housing Systems or any other Cage-free Housing System that provides Hens with unfettered access to vertical space; or
2. 1.5 square feet of usable floor space per Hen in Single-level All-Litter Floor Cage-free Housing Systems or any other Cage-free Housing System that does not provide Hens with unfettered access to vertical space.

Covered Animal. Any Breeding Pig, Calf Raised for Veal, or Egg-laying Hen that is kept on a Farm.

Department. The Massachusetts Department of Agricultural Resources.

Direct Supervision of a Licensed Veterinarian. An order or directive from a licensed veterinarian for the care or treatment of an individual animal.

Egg-laying Hen. Any female domesticated chicken, turkey, duck, goose, or guinea fowl kept for the purpose of commercial egg production.

Egg Products. Eggs of an Egg-laying Hen broken from the shells, intended for human food, whether in liquid, solid, dried or frozen form, whether raw or cooked, and with the yolks and whites in their natural proportions or with the yolks and whites separated, mixed or mixed and strained; provided, however, that Egg Products shall not include combination food products, including pancake mixes, cake mixes, cookies, pizzas, cookie dough, ice cream or other similar food products that are comprised of more than Egg Products, sugar, salt, water, seasoning, coloring, flavoring, preservatives, stabilizers and similar food additives.

Enclosure. Any cage, crate, or other structure used to confine a Covered Animal or Animals. Enclosure includes what is commonly described as a "gestation crate" or "stall" for pigs during pregnancy, a "veal crate" for calves raised for veal, and a "battery cage, enriched cage, or colony cage" for Egg-laying Hens.

Farm. The land, building, support facilities, and other equipment that are wholly or partially used for the commercial production of animals or animal products used for food; and does not include live animal markets, establishments at which inspection is provided under the Federal Meat Inspection Act, or official plants at which mandatory inspection is maintained under the federal Egg Products Inspection Act.

Farm Owner or Operator. Any Person who owns or controls the operations of a Farm.

Fully Extending the Animal's Limbs. Fully extending all limbs without touching the side of an Enclosure.

Guarantee. A contractual promise, in writing, by a seller of Shell Egg or Egg Products, Whole Pork Meat, or Whole Veal Meat to indemnify the purchaser of such products for any fine or monetary penalties relating to the purchased products that is imposed on the purchaser as a result of any non-compliance with the Act or 330 CMR 35.00 by the seller.

Meat. The part of the muscle of any cattle or swine, which is skeletal or which 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 which normally accompany the muscle tissue and which are not separate from it in the process of dressing; provided, however, that Meat shall not include the muscle found in the lips, snout or ears.

Multi-tiered Aviary. A Cage-free Housing System in which hens have unfettered access to multiple elevated platforms that provide hens with Usable Floor Space both on top of and underneath the platforms.

Partially-slatted System. A Cage-free Housing System in which hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.

Person. Any individual, firm, partnership, joint venture, limited liability corporation, estate, trust, receiver, syndicate, association, or other legal entity.

Pork Meat. Meat of a pig of the porcine species intended for use as human food.

Sale. A commercial sale by a business that sells any item covered by St. 2021, c. 108, § 3, but 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. For purposes of this section, a Sale occurs at the location where the buyer takes physical possession of an item covered by St. 2021, c. 108, § 3, provided, however, that “buyer” shall not include any Person taking physical possession of Whole Veal Meat, Whole Pork Meat, Shell Eggs, or Egg Products in Massachusetts if the Whole Veal Meat, Whole Pork Meat, Shell Eggs, or Egg Products are: (1i) produced outside of Massachusetts; and (2ii) enter and exit Massachusetts without additional processing or repackaging; and (3iii); are possessed by such Person exclusively for the purposes of transshipment or export outside of Massachusetts.

Shell Egg. A whole egg of an Egg-laying Hen in its shell form, intended for use as human food.

Single-level All Litter Floor System. A Cage-free Housing System bedded with litter and in which hens have limited or no access to elevated flat platforms.

Turning around Freely. Turning in a complete circle without any impediment, including a tether, and without touching the side of an Enclosure or another animal.

Uncooked. Requiring cooking prior to human consumption.

Usable Floor Space. The total square footage of floor space provided to each Egg-laying Hen, as calculated by dividing the total square footage of floor space provided to the Hens in an Enclosure (including both ground space and elevated level or nearly level flat platforms upon which Hens can roost) by the number of Hens in that Enclosure. Usable Floor Space shall not include perches or ramps.

Veal Meat. Meat of a Calf Raised for Veal and intended for use as human food.

Whole Pork Meat. 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 any ground or otherwise comminuted food products or 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.

Whole Veal Meat. Any Uncooked cut of veal (including chop, ribs, riblet, loin, shank, leg, roast, brisket, steak, sirloin or cutlet) that is comprised entirely of Veal Meat, except for seasoning, curing agents, coloring, flavoring, preservatives and similar Meat additives. Whole Veal 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 Veal Meat, seasoning, curing agents, coloring, flavoring, preservatives and similar Meat additives.

35.03: Prohibition on the Confinement of Covered Animals

- (1) It is a violation of St. 2021, c. 108, and 330 CMR 35.00 for a Farm Owner or Operator within Massachusetts to knowingly cause any Covered Animal to be Confined in a Cruel Manner.
- (2) Knowingly causing a Covered Animal to be confined during any of the following activities shall not be deemed to be a violation of St. 2021, c. 108, or 330 CMR 35.00:
 - (a) Transportation;
 - (b) State or county fair exhibitions, 4-H programs, and similar exhibitions;
 - (c) Slaughter in accordance with any applicable laws, rules, and regulations;
 - (d) Medical research;
 - (e) Examination, testing, individual treatment, or operation for veterinary purposes, but only if performed by or under the Direct Supervision of a Licensed Veterinarian;
 - (f) The 5-day period prior to a Breeding Pig's expected date of giving birth, and any day that the Breeding Pig is nursing piglets; or
 - (g) Temporary periods for animal husbandry purposes for no more than 6 hours in any 24-hour period; provided, however, that in the case of Egg-laying Hens, for not more than 24 hours total in any 30-day period.

35.04: Prohibition on the Sale of Products

- (1) It is a violation of St. 2021, c. 108, and 330 CMR 35.00 for a Business Owner or Operator to knowingly engage in the Sale within Massachusetts of any:
 - (a) Shell Egg or other Egg Products that the Business Owner or Operator knows or should know is the product of a Covered Animal that was Confined in a Cruel Manner;
 - (b) Whole Veal Meat that the Business Owner or Operator knows or should know is the Meat of a Covered Animal that was Confined in a Cruel Manner; or
 - (c) Whole Pork Meat that the Business Owner or Operator knows or should know is the Meat of a Covered Animal that was Confined in a Cruel Manner, or is the Meat of the immediate offspring of a Covered Animal that was Confined in a Cruel Manner; provided, however, that Whole Pork Meat products already in the supply chain as of and including August ~~2315~~, 202~~32~~, shall be deemed compliant such that their sale on or after this date shall not be a violation of St. 2021, c. 108, or 330 CMR 35.00.
- (2) It is a defense to any action to enforce 330 CMR 35.00 or to any action to enforce St. 2021, c. 108, that a seller of Shell Eggs, Egg Products, Whole Pork Meat, or Whole Veal Meat in Massachusetts relied in good faith upon either:
 - (a) a Guarantee;
 - (b) a written certification made pursuant to 330 CMR 35.05(1); or
 - (c) a written certification made pursuant to 330 CMR 35.05(2).

35.05: Certifications

- (1) Any Farm or Farm Owner or Operator that raises a Covered Animal and engages in a commercial transaction within Massachusetts involving any Shell Egg, Egg Products, Whole Veal Meat, or Whole Pork Meat derived from a Covered Animal raised on said Farm may Certify in writing under pains and penalties of perjury that such Farm does not knowingly cause any Covered Animal to be Confined in a Cruel Manner.
- (2) Any Person who engages in a commercial transaction within Massachusetts involving any Shell Egg, Egg Products, Whole Veal Meat, or Whole Pork Meat, including, but not limited to, a Farm, Farm Owner or Operator, Business Owner or Operator, or supplier, residing or operating within or outside of the Commonwealth, may Certify in writing that particular Shell Eggs, Egg Products, Whole Pork Meat, or Whole Veal Meat were not derived from a Covered Animal that was Confined in a Cruel Manner, or from the immediate offspring of a female pig that was Confined in a Cruel Manner.
- (3) A certification made pursuant to 330 CMR 35.05(1) will be effective for one calendar year from the date it is executed and shall be renewed annually. Additionally, any Persons or entities that provide certification pursuant to 330 CMR 35.05(1) or (2) may use a single blanket certification that applies to all of that Person's or entity's products provided that all such products are compliant with St. 2021, c. 108, and 330 CMR 35.00 at the time of the commercial transaction involving the covered product.

- (4) Any certification made pursuant to 330 CMR 35.05(1) and (2) shall be produced upon demand to:
 - (a) the Massachusetts Office of the Attorney General;
 - (b) the Department; and
 - (c) any Person who will rely on or has relied on such certification.
- (5) Any Person, Farm, Farm Owner or Operator, Business Owner or Operator, or supplier who includes all of the following information in a certification is in compliance with the requirements of 330 CMR 35.05(1) or (2), whichever is applicable:
 - (a) the name and address of the entity or operation;
 - (b) the type of Covered Animal raised, Covered Animal product produced, or Covered Animal product sold or supplied by the entity or operation;
 - (c) the date;
 - (d) a written statement, that is signed under pains and penalties of perjury, that the entity or operation does not knowingly cause any Covered Animal to be Confined in a Cruel Manner or that the Covered Animal product(s) sold or supplied by the entity or operation were not derived from a Covered Animal that was Confined in a Cruel Manner as prohibited by the St. 2021, c. 108; and
 - (e) if applicable, the name of the entity or operation to which the Covered Animal product(s) were sold or supplied and the date of such Sale or transaction.
- (6) A Person, Farm, Farm Owner or Operator, Business Owner or Operator, or supplier shall retain certification records for a period of three years.

35.06: Referrals by the Department

Whenever the Department inspects a Farm pursuant to any applicable authority, the Department may inspect Farms for compliance with the Enclosure and Usable Floor Space for Covered Animals under St. 2021, c. 108, and 330 CMR 35.00 to ensure that these animals are not being Confined in a Cruel Manner.

If the Department observes violations of St. 2021, c. 108, or 330 CMR 35.00 during its inspections of Farms within Massachusetts, the Department may refer those violations to the Attorney General's Office.

35.07: Third-Party Validators

Third-party Validators may be used to assist with compliance under St. 2021, c. 108, and 330 CMR 35.00 subject to joint approval of the Validators by the Secretary of Energy and Environmental Affairs or ~~his~~their designee and the Attorney General. A list of approved Third-party Validators will be made available from the Department as the Secretary and the Attorney General mutually agree to approve such Validators.

35.08: Severability

If any provision of 330 CMR 35.00 or the application of any provision of a regulation to any Person or circumstance is held to be invalid, the validity of the remainder of 330 CMR 35.00 and the applicability of such provision to other Persons or circumstances will

not be affected.

REGULATORY AUTHORITY

330 CMR 35.00: St. 2016, c. 333, as amended by St. 2021, c. 108.