



ANIMAL CARE PROGRAM

GUIDANCE: SALE UNDER ANIMAL CONFINEMENT

Mission of Animal Care Program

To serve animal agriculture producers and California consumers by promoting and protecting the welfare and care of animals in agriculture for Californians to have access to food that is sourced from humanely and sustainably raised animals.

Key terms italicized in this guidance are described in [Key Terms for Stakeholders](#) guidance document.

Purpose

Proposition 12 (2018), [Health and Safety Code \(HSC\) section 25990\(b\)](#), and [Animal Confinement Regulations](#), Chapter 10 (commencing with section 1320) of Division 2 of Title 3 of the California Code of Regulations (3 CCR) sections 1320.1(a), 1321.1(a) and 1322.1(a) prohibit a business owner or operator from engaging in the *commercial sale* within the state of a *covered product* from a *covered animal*, or immediate offspring of a *covered animal* in the case of *whole pork meat*, that was not kept in compliance with standards of HSC section 25991(e) and Animal Confinement regulations.

Focus on the specific transaction described to determine if a specific transaction of *covered product* is considered a *commercial sale* under HSC section 25991(o), 3 CCR sections 1320(e), 1321(f), and 1322(f) and therefore needs to be of *covered product* compliant with requirements.

Any exemption to the definition of *commercial sale* under Animal Confinement regulations applies only to that specific transaction, and not to the *covered product* itself. An exemption applies to the one transaction, any future transactions of the *covered product* in California are considered separately to determine if they fall under HSC section 25991(o) and need to be of compliant *covered product*. If any subsequent transactions of the *covered product* are a sale under HSC section 25991(o), then the *covered product* will need to comply with Animal Confinement regulations.

Read through flow of questions below starting with question 1 and follow the prompts provided under each question.

- 1) Does the product (*shell eggs, liquid eggs, whole veal meat or whole pork meat*) in the transaction qualify as a **covered product** under Animal Confinement regulations?

Refer to guidance: [Eggs Covered Under Animal Confinement](#)
[Pork and Veal Meat Covered Under Animal Confinement](#)

No → sale does **not** fall under HSC section 25991(o) and Animal Confinement regulations because the transaction is not of a *covered product*. The product does not need to be from a *covered animal*, or immediate offspring of a *covered animal* in the case of *whole pork meat*, kept in compliance with Animal Confinement regulations.

Yes → The transaction is of a *covered product*, continue to # 2 to determine if there is a *commercial sale* under HSC section 25991(o) and Animal Confinement regulations.

- 2) Is the transaction a **donation** of *covered product* to a nonprofit organization that has a tax exemption under section 501(c)(3) of the Internal Revenue Code (26 U.S.C.)? (3 CCR sections 1320(e)(4), 1321(f)(4), and 1322(f)(4))

Yes → the transaction **does not fall** under HSC section 25991(o) because this transaction falls under 3 CCR sections 1320(e)(4), 1321(f)(4), and 1322(f)(4) exemption of *commercial sale* and therefore does not need to be of *covered product* compliant with Animal Confinement regulations. Done.



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No → the transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #3.

3) For this transaction, does the buyer of the *covered product* take *physical possession* in California?

Pursuant to HSC section 25991(o), a sale shall be deemed to occur at the location where the buyer takes *physical possession* of an item. “Takes physical possession” means when the *covered product* is delivered to the buyer in California, regardless of whether the title transfer takes place outside of the state, whether the seller and buyer have provided otherwise by a contract, or whether an agent of the buyer accepts the *covered product* outside of the state for transportation into California. (3 CCR sections 1320(aa), 1321(z), 1322(bb))

No → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because the buyer is located outside of California. Done.

Yes → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #4.

4) Is the transaction of *covered product* that is produced outside of California, enters and exits California, without additional processing or repackaging, exclusively for purposes of transshipment or export outside of California? (3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1))

Yes → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because this transaction falls under 3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1) exemptions from the definition of *commercial sale*. [Refer to graphic on last page of this guidance.](#)

Processing or repacking is when the *covered product* is removed from its original packaging that it was placed in when it was produced outside of California and put into new packaging, transformed into a different product, or processed in a way that changes the integrity of the product.

Any exemption from the definition of *commercial sale* only applies to that specific transaction. Done.

No → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #5.

5) Is the transaction of *shell eggs* or *liquid eggs* and undertaken on the premises of an establishment under mandatory inspection under the Egg Products Inspection Act and issued an establishment number with prefix of “G”? (3 CCR section 1320(e)(2))

Yes → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because this transaction falls under 3 CCR section 1320(e)(2) exemption of *commercial sale*. Done.

No → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #6.



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6) Is the transaction of *whole pork meat* or *whole veal meat* and undertaken on the premises of an establishment under mandatory inspection under the Federal Meat Inspection Act and issued an establishment number with prefix of “M”? (3 CCR section 1321(f)(2) and 1322(f)(2))

Yes → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because this transaction falls under 3 CCR sections 1321(f)(2) and 1322(f)(2) exemptions from the definition of *commercial sale*. Done.

No → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #7.

7) Is the transaction of *covered product* made directly to federal agencies or takes place on federal lands located within California?

Yes → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because this transaction falls under 3 CCR sections 1320(e)(2), 1321(f)(2), and 1322(f)(2) exemptions from the definition of *commercial sale*. Done.

No → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #8.

8) Is the transaction of *covered product* to a sale to a buyer on tribal lands located within California? (3 CCR sections 1320(e)(3), 1321(f)(3), and 1322(f)(3))

Yes → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations because this transaction falls under 3 CCR sections 1320(e)(3), 1321(f)(3) and 1322(f)(3) exemptions from the definition of *commercial sale*. Done.

No → transaction might fall under HSC section 25991(o) and Animal Confinement regulations, continue to #9.

9) Is the transaction of *covered product* a sale, exchange, barter, trade, transfer title or possession, or distribution, 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? (3 CCR sections 1320(e), 1321(f) and 1322(f))

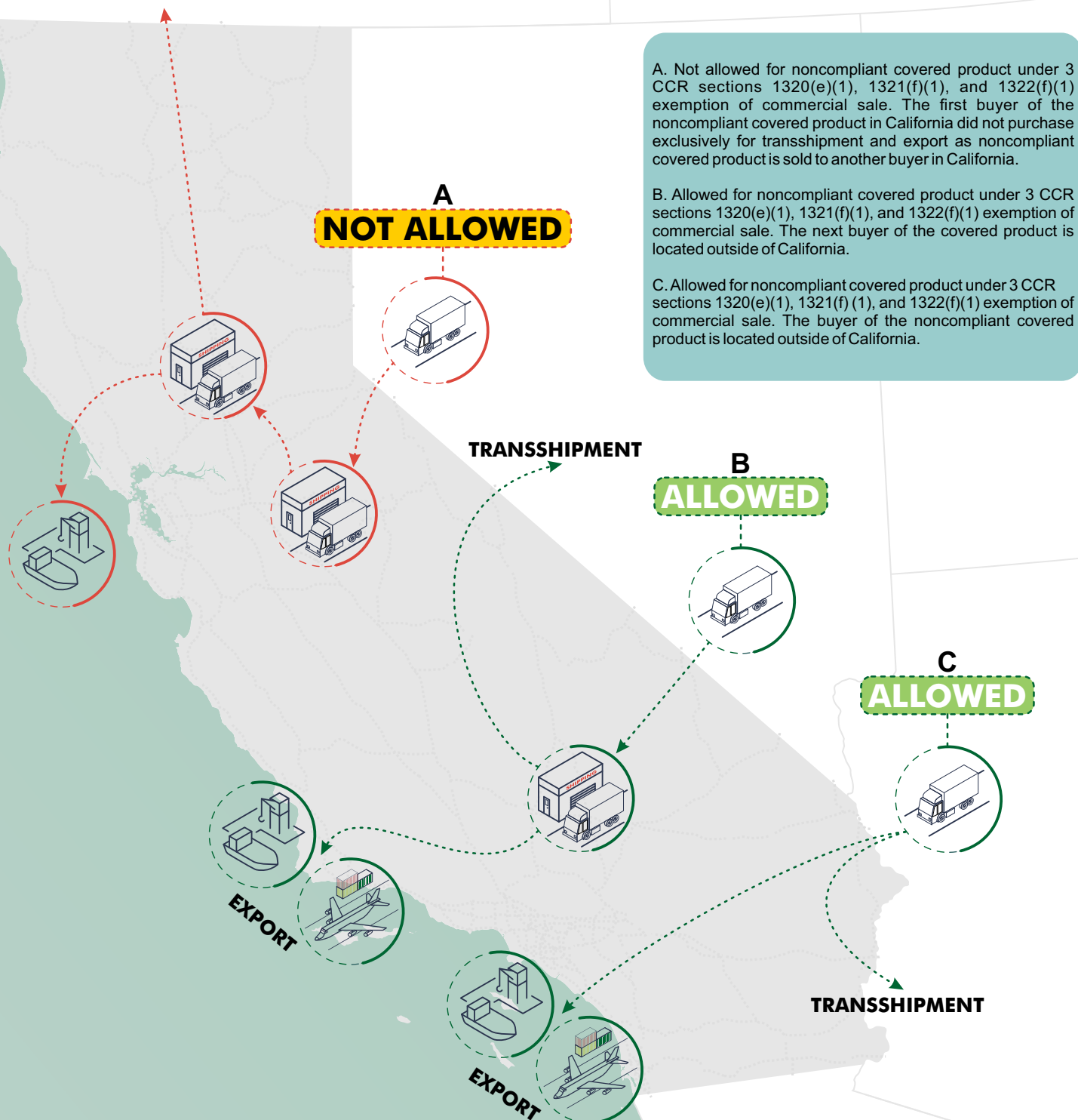
Yes → transaction **does** fall under HSC section 25991(o) and Animal Confinement regulations. Done.

No → transaction **does not** fall under HSC section 25991(o) and Animal Confinement regulations. Done.

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Examples of noncompliant covered product flow illustrating question 4 in this guidance of the exemption to the definition of commercial sale exclusively for purposes of transshipment or export outside of California. (3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1))



A. Not allowed for noncompliant covered product under 3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1) exemption of commercial sale. The first buyer of the noncompliant covered product in California did not purchase exclusively for transshipment and export as noncompliant covered product is sold to another buyer in California.

B. Allowed for noncompliant covered product under 3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1) exemption of commercial sale. The next buyer of the covered product is located outside of California.

C. Allowed for noncompliant covered product under 3 CCR sections 1320(e)(1), 1321(f)(1), and 1322(f)(1) exemption of commercial sale. The buyer of the noncompliant covered product is located outside of California.