

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Regulatory Action:

Government Code Section 11349.3

Title 3, California Code of Regulations

OAL File No. 2013-0322-04 S

**Adopt sections: 1350
Amend sections: 1354
Repeal sections:**

The Department of Food and Agriculture (CDFA) is adopting section 1350 and amending section 1354 of title 3 of the California Code of Regulations (CCR). The purpose of adding section 1350 to the CCR is to require egg producers and egg handlers to comply with food safety requirements in order to reduce the risk of Salmonella contamination in shell eggs sold for human consumption in California. Further, the purpose of amending section 1354 of the CCR is to require a labeling statement that identifies who produced or distributed the shell eggs and specifies whether the shell eggs are compliant with the specific requirements stated in the above-mentioned section 1350 of the CCR.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2013.

Date: 5/6/2013



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Attorney

For: **DEBRA M. CORNEZ**
Director

Original: Karen Ross
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The Department of Food and Agriculture, Meat, Poultry and Egg Safety Branch, hereby adopts section 1350 and amends section 1354 of Subchapter 3, Chapter 1, Division 3, of Title 3 of the California Code of Regulations.

Section 1350. Shell Egg Food Safety.

(a) In accordance with Food and Agricultural Code section 27521(a), to assure that healthful and wholesome eggs of known quality are sold in California, commencing July 1, 2013, any egg producer or egg handler as defined in sections 27510 and 27510.1 of the Food and Agricultural Code, shall ensure all flocks with a hatching date after July 1, 2013 comply with the requirements of this section.

(b) Registered egg producers or egg handlers whose shell eggs are processed with a treatment such as pasteurization to ensure safety, shall be exempt from the requirements of this section. A "treatment" or "treated" means a technology or process that achieves at least a 5-log destruction of SE for shell eggs as defined in 21 CFR section 118.3.

(c) Registered egg producers or egg handlers with 3,000 or more laying hens shall incorporate all of the provisions specified in subsections (c)(1), (2), and (3) in their facility operations:

(1) Implement *Salmonella enterica* serotype Enteritidis (SE) prevention measures in accordance with the Food and Drug Administration, Department of Health and Human Services' requirements for the production, storage, and transportation of shell eggs as specified in 21 CFR Part 118;

(2) Implement a SE environmental monitoring program which includes testing for SE in "chick papers." (the papers in which chicks are delivered) and the house environment when the pullets are 14-16 weeks of age, 40-45 weeks of age, 4-6 weeks post-molt, and pre-depopulation; and

(3) Implement and maintain a vaccination program to protect against infection with SE which includes at a minimum two attenuated live vaccinations and one killed or inactivated vaccination, or a demonstrated equivalent SE vaccination program approved by the Department.

(d) Commencing January 1, 2015, no egg handler or egg producer may sell or contract to sell a shelled egg for human consumption in California if it is the product of an egg-laying hen that was confined in an enclosure that fails to comply with the following standards. For purposes of this section, an enclosure means any cage, crate, or other structure used to confine egg-laying hens:

(1) An enclosure containing nine (9) or more egg-laying hens shall provide a minimum of 116 square inches of floor space per bird. Enclosures containing eight (8) or fewer birds shall provide a minimum amount of floor space per bird as follows, using formula $322 + [(n-1) \times 87.3] / n$, where "n" equals the number of birds:

<u>Number of Birds</u>	<u>Square Inches Per Bird</u>
<u>1</u>	<u>322</u>
<u>2</u>	<u>205</u>
<u>3</u>	<u>166</u>
<u>4</u>	<u>146</u>
<u>5</u>	<u>135</u>
<u>6</u>	<u>127</u>
<u>7</u>	<u>121</u>
<u>8</u>	<u>117</u>

(2) The enclosure shall provide access to drinking water and feed trough(s) without restriction.

NOTE: Authority cited: Sections 407, 27531 and 27533, Food and Agricultural Code. Reference: Sections 27510, 27510.1, 27518, 27521, 27541 and 27573, Food and Agricultural Code.

Section 1354. Marking Requirements.

(a) Grade and Size Designation. Where eggs are not produced by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such eggs; such as, "Produced for _____", "Distributed by _____", or any other wording that expresses the facts. Each container or subcontainer of shell eggs shall be marked with the name, address and zip code of the person by or for whom the eggs were graded and packed, and the unabbreviated designation of one of the following sizes and grades:

<u>Size</u>		<u>Grade</u>
Jumbo	Medium	Grade AA
Extra Large	Small	Grade A
Large	Peewee	Grade B

Only one size and grade shall appear upon a container, subcontainer or placard. Size and grade shall be plainly marked in letters not less than 1/4 inch in height, as follows:

- (1) Containers holding three dozen or less, on the outside top face; and
- (2) Containers holding more than three dozen, on one outside top, side or end, except that oblong containers shall be marked on one outside end.

* * *

(f) In accordance with section 1350 of Title 3 of the California Code of Regulations, commencing January 1, 2015, the principal display panel for containers for all eggs sold in California shall have the following statement: "California Shell Egg Food Safety Compliant". The statement may be abbreviated to read "CA SEFS Compliant" or a similar abbreviation or other descriptive term may be used if determined by the Department not to be misleading or deceptive. The statement shall be legible and plainly marked on each container in letters not less than 1/4 inch in height.

NOTE: Authority cited: Sections 407, 27531 and 46002, Food and Agricultural Code. Reference: Sections 27521, 27573, 27631 and 27637, Food and Agricultural Code.