



Notice of Request for Information
on Implementation of Proposition 12: Health and Safety Code
sections 25990 through 25994 relating to Farm Animals

Summary:

The Animal Health and Food Safety Services Division of the California Department of Food and Agriculture (CDFA) invites comments, data or other information on implementation of Chapter 13.8, *Farm Animal Cruelty*, of the Health and Safety Code (HSC) as amended by the 2018 initiative, Proposition 12. HSC section 25993 specifies that CDFA and the California Department of Public Health shall jointly promulgate rules and regulations for the implementation of the act. CDFA is seeking input from stakeholders to inform the development of an implementation approach that is consistent with requirements of the law, is effective at ensuring prevention of farm animal cruelty as defined under the initiative and avoids unnecessary burdens upon the industry. Written comments will be received until 5:00 PM, **June 3, 2019**.

Background:

On November 6, 2018, California voters approved Proposition 12, the *Farm Animal Confinement Initiative*, which amended requirements in Chapter 13.8, sections 25990 through 25994, of the HSC. The revised law requires that covered animals be housed in confinement systems that comply with specific standards for freedom of movement, cage-free design and minimum floor space, and identifies covered animals to include veal calves, breeding pigs and egg-laying hens, as specified. HSC section 25990 prohibits a farm owner or operator from knowingly causing any covered animal to be confined in a cruel manner, as specified, and prohibits a business owner or operator from knowingly engaging in the sale within the state of shell eggs, liquid eggs, whole pork meat or whole veal meat, as defined, from animals housed in a cruel manner.

In addition to general requirements that prohibit animals from being confined in a manner that prevents lying down, standing up, fully extending limbs or turning around freely, the measure added detailed confinement space standards that prohibit the following:

- After December 31, 2019, confining a calf raised for veal, as defined, with less than 43 square feet of usable floor space per calf.
- After December 31, 2019, confining an egg-laying hen, as defined, with less than 144 square inches of usable floor space per hen.
- After December 31, 2021, confining a breeding pig, as defined, with less than 24 square feet of usable floor space per pig.
- After December 31, 2021, confining an egg-laying hen with less than the amount of usable floor space per hen required by the *2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing*, or in an enclosure other than a cage-free system.



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HSC section 25992 lists specific exemptions to the above requirements including, but not limited to, during medical research, veterinary care, transportation, exhibitions such as 4-H programs and state or county fairs, and specified periods for animal husbandry purposes.

The complete text of the law (HSC sections 25990-25994), including confinement requirements, definitions, exemptions and penalties, may be found on-line at:

<http://www.cdfa.ca.gov/ahfss/Prop12.html>

Proposed Regulatory Framework:

To meet mandated enforcement responsibilities under Proposition 12, CDFA is in the process of developing a regulatory framework that includes production facility registration, certification, verification audits or inspections, border station inspection and a penalty matrix for violations including an appeal process. Stakeholder comments or input on this potential regulatory framework are of interest to CDFA. A registration process for identifying and tracking the location of animal production facilities doing business or potentially doing business in California is viewed as foundational to effective certification and audit components of the overall regulatory framework for verifying and documenting compliance with requirements. CDFA would explore leveraging existing registration systems or information as much as is practicable.

HSC section 25993.1, added by Proposition 12, specifies that it shall be a defense to any action to enforce this provision that the business operator relied in good faith upon a written certification by the supplier that such products were not derived from covered animals confined in a cruel manner. Thus, CDFA views the validity of a supplier's written certification to be critical to the integrity of the animal confinement provisions that California businesses must comply with under Proposition 12, as well as to the overall effectiveness of ensuring that only products from animals raised and housed in conformance with the confinement provisions of the ballot measure reach markets within the state. To ensure this integrity, a certification program by CDFA would provide credible regulatory documentation of a production facility's good-standing with registration requirements and to conformance with the specific minimum enclosure and confinement standards of the law.

CDFA's current thinking is that certification of a facility would be based on verification of compliance through direct field verification audits. The frequency, compliance criteria, enforcement actions, and potential penalty matrices would be developed as part of the formal administrative rulemaking process. CDFA welcomes input on effective verification approaches, including comments on potential leveraging of any existing animal care certification and audit programs in use by the industry.

Request for Information:

CDFA invites comments, data or other information concerning implementation of HSC sections 25990 through 25994 as amended by Proposition 12 including, but not limited to, the following topics:

- Definitions not included in the law that might be needed for clarity of requirements, compliance or enforcement.
- Any greater specificity or clarity needed for types of meat products or egg products potentially subject to provisions of the law.
- Comments on the applicability of specified exemptions for establishments at which mandatory inspection is provided or maintained under the Federal Meat Inspection Act, or the Federal Egg Products Inspection Act.

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- Comments or information regarding any greater clarity needed on exceptions for medical research, veterinary purposes, transportation, animal husbandry or other activities as listed in HSC section 25992.
- Information on marketing, distribution, transportation, interstate commerce, and points of sale that may be relevant to compliance and enforcement of provisions related to the sale of products from covered animals.
- Information regarding needs or challenges of written certification by suppliers that products were not obtained from a covered animal confined in a cruel manner as defined by the statute.
- Comments on the written certification by suppliers regarding conformance to requirements, approaches to ensuring validity of such documents, and input on CDFA's potential role in that process.
- Impacts or challenges related to product labeling and advertising.
- Comments or information regarding animal production and confinement systems in use or in development by industry that are not specifically listed under HSC section 25991 but may still comply with requirements.
- Comments on methods of verification of a production facility's compliance with animal confinement provisions, including potential audit or inspection frequencies.
- Information on existing voluntary animal care related audit and certification programs and how any such programs compare to California's requirements.
- Comments on penalties for violations of the provisions.
- Other information that may help inform CDFA on developing an effective implementation approach, including needed areas of clarification or greater specificity, as well as economic impacts of initial or ongoing compliance.

If anyone wishes to submit written comments in response to this Request for Information, they must be received via electronic mail with any attachments in PDF by 5:00 PM, **June 3, 2019**, at the following address:

CAVET@cdfa.ca.gov

To be included on a subscription list for updates and information regarding the upcoming regulatory proposal, please click on the following link:

<https://www.cdfa.ca.gov/subscriptions/#Proposition12>

A copy of the upcoming regulatory proposal, when available, will be posted on the following website and published in the California Regulatory Notice Register:

<http://www.cdfa.ca.gov/ahfss/regulations.html>

Dated: April 9, 2019