

PROPOSED RULE FOR DIVISION 18

PROVISIONS FOR EGG-LAYING HENS IN ENCLOSURES

As authorized by Chapter 436 Oregon Laws 2011, these administrative rules clarify the implementation of Sections 1 to 4 of the 2011 Law. The law is intended to address minimum space requirements for enclosures of egg-laying hens.

603-018-0001

Definitions

For purposes of OAR 603-018-0003 to 603-018-0013:

- (1) "Commercial egg-laying farm" means any commercial farm that has caged egg-laying hens at any one location or multiple locations.
- (2) "Director" means the Director of the Department of Agriculture or the Director's authorized deputies or officers.
- (3) "Distribute" means to import, consign, sell, offer for sale, barter, exchange or otherwise facilitate the supplying of eggs or egg products into or within Oregon.
- (4) "Distributor" means the first person that distributes egg or egg products into or within Oregon.
- (5) "Enforcement" means any documented action taken by the department to address a violation.
- (6) "Person" includes individuals, corporations, associations, firms, joint stock companies, public and municipal corporations, political subdivisions of the state and any agency thereof, and the federal government and any agency thereof.
- (7) "Sell" or "Sale" means to sell, offer for sale, expose for sale, or have in possession for sale.
- (8) "Violation" is an act or omission that does not comply with a provision of Oregon Laws 2011 Chapter 436 or the administrative rules developed thereunder.

603-018-0003

Poultry Husbandry, Cage Size Standards for Production of Eggs

- (1) All enclosures used, or intended for use to confine egg-laying hens constructed or otherwise acquired before January 1, 2012 must meet, or exceed, standards equivalent to the requirements for certification established in the 2010 Edition of the United Egg Producers' (UEP) Animal Husbandry Guidelines for U.S. Egg Laying Flocks addressing Housing and Space Guidelines.
- (2) All enclosures used, or intended for use to confine egg-laying hens constructed or otherwise acquired after January 1, 2012 must meet, or be convertible into enclosures that meet, or exceed, standards equivalent to the requirements for certification of the American Humane Certified™ Animal Welfare Standards for Enriched Colony Housing (revised June 29, 2011).
- (3) At a minimum, all commercial egg-laying farms must be operated at standards equivalent to the requirements for UEP certification until enclosures meet, or are converted to meet, or exceed, standards equivalent to AHA Enriched Colony Housing enclosures.

603-018-0005

Conditions for Egg-Laying Hens in Enclosures

(1) All commercial egg-laying farms must, at a minimum, maintain UEP certification, or standards equivalent, for egg laying hens confined in enclosures.

603-018-0007

Standards for, and proof of, production and distribution of eggs and egg products

(1) All eggs, or egg products sold in Oregon shall be from hens managed in accordance to Oregon law and OAR 603-018-0001 through OAR 603-018-0007.

(2) Distributors of eggs or egg products into, or within, this state, for use within this state to any entity other than the retail end-user of shell eggs, must provide proof to the department that the eggs or egg products originated from hens managed according to (1) of this section. Such proof may be a copy of current UEP certification, AHA certification, or certification by an independent third party that demonstrates that the eggs, or egg products purchased were produced by hens managed according to the standards of, standards equivalent to, or standards exceeding, UEP or AHA.

(3) If the documentation required in (2) of this section is not on file with ODA as a part of a Farm Business Plan as required in OAR 603-018-0009, the distributor of eggs or egg products must complete and submit an Egg/Egg Products Distribution Verification Form to the State Department of Agriculture before selling any eggs or egg products in the state. The form must be renewed every three years.

(4) Any Oregon purchaser, other than the retail end-user of shell eggs, of eggs or egg products must maintain receipts or other documentation identifying the distributor from whom they received eggs, or egg products. Receipts or other documentation must be maintained for a period of three (3) years and made available to the department upon request.

(5) Eggs or egg products that are certified per section (2) of this section may not be sold in Oregon if they are comingled with non-certified eggs or egg products.

(6) A person may not fail, or refuse, to submit proof that eggs, or egg products sold in Oregon meet the standards required by the department. Failure, or refusal to submit documentation to the department may result in an enforcement action including civil penalty.

(7) A person may not fail, or refuse, to possess or maintain records as required in (4) of this section. Failure, or refusal to possess and maintain documentation as required may result in an enforcement action including civil penalty.

(8) A person may not sell eggs or egg products that the person knows, or reasonably should know that are a product of an egg-laying hen that has been confined in an enclosure that fails to comply with Oregon Laws 2011 Chapter 436 or OAR 603-018-0001 through 603-018-0007. Any such sale may result in an enforcement action including civil penalty.

603-018-0009

Commercial Egg-Laying Farm Business Plans

(1) Upon renewal of an "Egg Breaker" or "Egg Handler" license issued by the department annually beginning July 1, 2012, all commercial egg laying farms in Oregon must write and submit to the department a Farm Business Plan describing the manner by which they intend to comply with 2026 conversion goals as outlined in Section 9 of Oregon Laws 2011 Chapter 436.

(2) If a commercial egg-laying farm in Oregon does not hold an "Egg Breaker" or "Egg Handler" license, a Farm Business Plan may be submitted to the department annually beginning July 1, 2012.

(3) A Farm Business Plan must include:

(a). Identification of the commercial egg-laying farm location(s) including address, contact information, signature of principal owner(s) or their authorized representative.

(b) Date plan was written.

(c) An Egg/Egg Products Distribution Verification Form or a copy of a current UEP or AHA certification, or certification by an independent third-party that demonstrates that the eggs, or egg products produced are from hens managed according to the standards of, or standards equivalent to or exceeding UEP or AHA standards.

(d) Percentage of total egg-laying hen capacity that currently meets, or exceeds, UEP standards.

(e) Percentage of total egg-laying hen capacity that meets, or exceeds, AHA Enriched Colony Housing standards. The sum of (d) and (e) must equal 100%.

(f) Brief narrative explaining how the farm intends to meet the anticipated replacement timeline for the conversion of enclosures.

(4) Each person submitting a Farm Business Plan must maintain adequate documentation to support the information provided therein. These documents must be made available to the department upon request.

(5) Verification of the information contained in a Farm Business Plan may be accomplished by physical inspection of the commercial egg-laying farm by a department representative.

(6) A person may not fail or refuse to submit a Farm Business Plan as required. Failure or refusal to submit a Farm Business Plan as required is a violation subject to enforcement actions, up to and including civil penalty.

(7) A person may not fail or refuse to maintain adequate documentation to substantiate information contained in a Farm Business Plan. Failure or refusal to maintain, or provide, such documentation is a violation subject to enforcement actions, up to and including civil penalty.

(8) The department may request information to be included in a Farm Business Plan as deemed necessary.

603-018-0011

Department Access, Subpoena authority

(1) As authorized by ORS 561.275 the State Department of Agriculture may have access at reasonable times to records, premises, materials or conveyances as necessary for the purpose of administering and enforcing Oregon Laws 2011

Chapter 436 and rules adopted thereunder.

(2) The department may obtain a subpoena to require the production of pertinent records related to the administration and enforcement of Oregon Laws 2011

Chapter 436 and rules adopted thereunder.

603-0018-0013

Enforcement and Civil Penalties Generally

(1) In addition to any other penalty provided by law, the Director may assess a civil penalty not to exceed \$2,500 for each violation of any provision of Oregon Laws 2011 Chapter 436 and rules adopted thereunder.

(2) In addition to a civil penalty or any other penalty provided by law, the department is not precluded from utilizing other enforcement alternatives. Enforcement alternatives may include, but are not limited to, letter of advisement, notice of violation, or other non-civil penalty action as authorized by law and as deemed necessary to attain compliance.

(3) Notwithstanding that each and every violation is a separate and distinct act and in cases of continuing violations, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations against a person may be consolidated into a single proceeding.

(4) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced upon such terms and conditions, as the Director considers proper and consistent with public health and safety.

(5) Civil penalties shall be due and payable ten (10) business days after the order becomes final by operation of law or on appeal. A person may pay a civil penalty before an order becomes final. Payment of a civil penalty before an order becomes final is an admission by the person of all of the allegations in the Notice of Imposition of Civil Penalty.