



ANIMAL CARE PROGRAM

GUIDANCE: QUESTIONS AND ANSWERS RELATED TO PORK SALES IN THE WAKE OF THE 2023 SUPREME COURT DECISION

When did Proposition 12 (2018) (Prop 12) go into effect for breeding pigs and whole pork meat sold in California?

The requirement for a breeding pig to be confined according to the standards described in California [Health and Safety Code \(HSC\) Section 25991\(e\)\(3\)](#) went into effect on January 1, 2022. Enforcement of that provision was enjoined in February 2022 by the Sacramento Superior Court in *California Hispanic Chambers of Commerce v. Ross* (Case No. 34-2021-80003765), but that injunction is set to terminate on July 1, 2023.

You can also refer to the [Important Dates guidance](#) document on the [Animal Care Program's website](#) for a complete list of previous implementation dates and the upcoming deadline of January 1, 2024, after which producers and distributors are required to be third-party certified.

What do I do with noncompliant whole pork meat in inventory that was purchased prior to July 1, 2023?

We recognize that current inventory is transient and as purchases of compliant products begin to be made after July 1, 2023, pork products in current stocks will eventually be cleared from freezers and retail stores in California. CDFA understands that there will necessarily be a period of transition. CDFA reiterates that for the remainder of 2023, we intend to focus our limited implementation resources, not on covered products already in commerce, but rather on 1) outreach to ensure that all distributors who are required to register do so; 2) accreditation of third-party certifying agents so that when third-party certification is required for producers and distributor registrations beginning on January 1, 2024, producers and distributors have more options; and 3) certification of producers and distributors.

Who enforces Prop 12 prohibitions on the sale of noncompliant covered product (HSC Section 25990(b))?

Per HSC Section 25993(a), CDFA and the California Department of Public Health are responsible for developing rules and regulations to implement Prop 12, which were finalized and went into effect on September 1, 2022. HSC Section 25993(b) provides remedies for violations. Decisions on whether to pursue specific remedies allowed under the law are made by the Attorney General or local jurisdictional authorities like a District Attorney or City Attorney. For more information regarding enforcement please see HSC Section 25993 and Business and Professions Code Sections 17200 et seq.

Who enforces Animal Confinement regulations ([3CCR Sections 1320-1327.3](#))?

The Prop 12 regulations provide that CDFA will be the agency responsible for implementing the provisions of the regulations including registration, accreditation, certification, and document inspection. When fully implemented, including third-party certification of compliance which is required for distributor registration in 2024, the regulations and CDFA activity will provide the framework for consumers and other end-users like retailers, grocers, and restaurants to have confidence that the covered product they buy or sell in California is compliant with Prop 12.

As a distributor, selling or distributing whole pork meat to an end-user in California, what are the next steps I need to take to ensure compliance with statutory and regulatory requirements?

Most important is that distributors register with CDFA by submitting a completed distributor registration application. This registration was required by January 1, 2023 and is renewed every twelve months. CDFA is continuing to accept applications for registration. To apply to be a distributor, please complete and submit the [Application for Distributor Registration](#). And please see the [Guidance for Distributors](#) document for guidance for distributors. Each facility location distributing or selling covered product to an end-user in California is required to register.

After July 1, 2023, pork distributors will need to submit a self-certification of compliance or valid third-party certification along with their application for registration.

After January 1, 2024, all distributors will need to submit a valid third-party certification along with their application for a new registration and for the purposes of registration renewal.

Please reference the [list of certifying agents on CDFA's website](#) to provide this certification.



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As a retailer, what are the next steps I need to take to ensure compliance with statutory and regulatory requirements?

Individual retail locations are not required to register with CDFA. While sales of covered product which take place between a retailer and a customer fall under Prop 12, retailers benefit from a good-faith reliance rule if they receive a written certification of compliance from their distributors. Specifically, HSC section 25993.1 states that it shall be a defense to any action to enforce subdivision (b) of Section 25990 that a business owner or operator relied in good faith upon a written certification by the supplier that the whole veal meat, whole pork meat, shell eggs, and liquid eggs at issue was not derived from a covered animal who was confined in a cruel manner, or from the immediate offspring of a breeding pig who was confined in a cruel manner. If retailers have documentation that all covered products are from registered distributors, those distributors should have the ability to trace product to compliant farms.

If the retailer purchases covered product directly from a facility with mandatory inspection under the Federal Meat Inspection Act or Egg Products Inspection Act and the facility is not a registered distributor, then the retailer is required to maintain records documenting written certifications of compliance for the covered product sold at that location.