



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003
awionline.org phone: (202) 337-2332 fax: (202) 446-2131

July 30, 2021

Joela Qose
Senior Policy Coordinator
Attorney General's Office
1 Ashburton Place
Boston, MA 02108

Submitted electronically via email

RE: Comments on Proposed Regulations Implementing the Act to Prevent Cruelty to Farm Animals

Dear Ms. Qose:

The Animal Welfare Institute (AWI) submits these comments on behalf of our supporters in Massachusetts in response to the Office of Attorney General's proposed regulations for implementing the Act to Prevent Cruelty to Farm Animals.

AWI was established in 1951 to reduce the suffering caused by humans to all animals, including those raised for meat, poultry, and egg products. In furtherance of its mission, AWI works to advance legislative and regulatory efforts to improve the conditions of animals used in agriculture while on the farm, during transport, and at slaughter. As part of this work, we also monitor the enforcement of state and federal laws intended to protect farm animals from inhumane conditions.

In 2020, AWI released a first-of-its kind report on the enforcement of 32 state farm animal protection provisions based on our review of public records. The provisions we focused on fall into three major categories: (1) on-farm minimum animal care standards, (2) laws prohibiting specific conventional industry practices, such as intensive confinement, and (3) bans on the sale of products that violate the state's minimum requirements.¹ The findings of our research have implications for improving the Attorney General's proposed regulations to ensure adequate enforcement of the ban on the sale of shell eggs, whole veal meat, or whole pork meat (hereinafter referred to as "covered products").

AWI is concerned that, as written, the proposed regulations do not provide an adequate enforcement mechanism to ensure covered products sold within the state are not derived in a manner that violates the statute's prohibition on certain confinement practices. According to the 2017 Census of Agriculture conducted by the U.S Department of Agriculture, the state of

¹ *Enforcement of State Farm Animal Welfare Laws*, ANIMAL WELFARE INST. (Mar. 2020)
<https://awionline.org/sites/default/files/uploads/documents/20StateEnforcementReport.pdf>

Massachusetts appears to have little commercial production of the covered animal products. Therefore, proper enforcement of the sales ban has the greatest potential to ensure that the cruel methods of farm animal confinement the statute seeks to prohibit are not used, regardless of where the covered products are produced. As currently written, the proposed regulations lack an adequate system for ensuring products coming into the state are in compliance with the law. Instead, they merely establish an arguably voluntary certification process that may or may not be monitored by the Attorney General and Department of Agricultural Resources. Specifically, provisions (1) and (2) of section 36.06 state farm owners or operators, suppliers, business owners, and other entities engaged in the sale of these products *may self-certify* that they comply with the statute. Even then, entities are not required to submit these certifications to the Attorney General or Department of Agricultural Resources unless prompted to do so. Only farms located in the state are required to submit certifications to a local Board of Health, and moreover it is unclear if these Boards possess the authority to inspect facilities if they suspect violations.

At the time AWI conducted the state enforcement survey referenced above, two other states (California and Oregon) had similar laws in effect to prohibit the sale of eggs produced from hens confined in a manner that violates state law. Both states have developed a more comprehensive enforcement mechanism compared to the Office of Attorney General’s proposed regulations. And, as a result, these states have been able to prevent the sale of noncompliant eggs.

Under California state regulations, entities—both in-state and out-of-state—that wish to sell eggs within the state must first register with the California Department of Food and Agriculture. They must also comply with extensive record-keeping requirements and are subject to inspection.² Eggs found to be noncompliant can also be tagged, held, or seized by enforcement personnel.³ Similarly, under Oregon state regulations, entities that wish to sell or distribute eggs or egg products into or within the state are required to provide documentation—such as a United Egg Producers certification, American Humane Association certification, or other independent third-party certification—to the Oregon Department of Agriculture demonstrating the eggs were produced in compliance with state law.⁴ Additionally, purchasers of eggs (excluding retail end-users) are required to keep records of all egg purchases, and all records, premises, materials, or conveyances associated with the production and sale of eggs are subject to inspection.⁵

The regulations proposed by the Office of Attorney General include no such requirements; they do not require entities to register with the Department or to provide any sort of documentation of compliance before distributing eggs within the state. The only record-keeping requirement proposed is retaining evidence of certification for a number of years. However, as mentioned above, the certification need not be provided by an independent party, and farms are only subject to inspection for compliance with the regulation’s confinement restrictions if the Department is conducting an inspection for another authorized, unrelated purpose. To ensure that the Act to Prevent Cruelty to Farm Animals—and the ban on the sale of noncompliant covered products, in particular—is properly implemented and enforced, AWI strongly recommends amending the

² Cal. Code Regs. tit. 3, § 1350; Cal Code Regs. tit. 3, §1358.4

³ Cal. Code Regs. tit. 3, § 1355

⁴ Or. Admin. R. 603-018-0010

⁵ *Id.*; Or. Admin. R. 603-018-0020

proposed regulations to provide the Attorney General and Department of Agricultural Resources with greater oversight of covered products coming into the state. This can be done by incorporating requirements similar to those provided under California and Oregon state regulations that have proven successful in preventing noncompliant products from being sold within those states.

Thank you for the opportunity to provide input and for consideration of our comments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Allie Granger".

Allie Granger
Policy Associate, Farm Animal Program
Animal Welfare Institute