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CH. 66 CHICKEN EGG REGULATION**

**CHAPTER 66
CHICKEN EGG REGULATION**

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§ 66101. Definitions.

As used in this Chapter, unless the context clearly requires a different construction:

- (a) *Consumer* means any person who acquires eggs for consumption in his own household and not for resale.
- (b) *Container* means any box, case, basket, carton, sack, bag or other receptacle containing six eggs or more.
- (c) *Department* means the Department of Agriculture.
- (d) *Director* means the Director of Agriculture.
- (e) *Eggs* means eggs in the shell that are the product of domesticated chickens.
- (f) *Grade* means specifications defining the limit of variation in quality of eggs in such a manner as to differentiate among classes of

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eggs, and the letter, number or other symbol by which reference thereto may be made.

(g) *Institutional consumer* means a restaurant, hotel, boarding house, or any other business, facility, or place in which eggs are prepared or offered as food for use by its patrons, residents, inmates or patients.

(h) *Market* means sell, offer for sale, give in the channels of commerce, barter, exchange or distribute in any manner.

(i) *Person* means any individual, producer, firm, partnership, exchange, association, trustee, receiver, corporation or any other entity and any member, officer, employee or agent thereof.

(j) *Producer* means a person who markets eggs of his own hens' production.

(k) *Retailer* means any person who markets eggs to ultimate consumers.

(l) *Size-weight* class means the size of eggs to be determined by weighing pursuant to standards or classifications for size which are adopted and promulgated by this Chapter.

(m) *Standard* means specifications of the physical characteristics of any or all of the component parts of individual eggs.

SOURCE: GC § 12500 added by P.L. 11-205. Unless otherwise noted, all SOURCE references in this Chapter will be to P.L. 11-205.

§ 66102. Inedible Eggs: Marketing Prohibited; Exception.

No person shall market any inedible eggs, as defined under the Federal Food, Drug and Cosmetic Act, as amended, or incubated eggs except that such inedible and incubated eggs may be sold as commercial feed or for other commercial purposes than human consumption, provided such eggs shall be broken and denatured on the premises where produced, in a manner approved by the Department.

SOURCE: GC § 12501.

§ 66103. Standards, Grades & Size-Weight Classes.

The Department shall establish, and from time to time, may amend or revise, standards, grades and size-weight classes for eggs marketed in

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this territory. In administering this section, the Department shall have due regard for the desirability of uniformity in the standards, grades and size-weight classes for eggs moving in intra-territory and interstate commerce and shall, as far as practical, employ standards, grades or size-weight classes developed by the United States Department of Agriculture. Except as specifically provided in § 66110, the standards of quality, grades and the size-weight classes established by the Department pursuant to this section shall apply to all eggs marketed in the territory by any person.

SOURCE: GC § 12502.

§ 66104. Certification Service; Fee.

(a) The Department shall, upon request, provide the services of a qualified eggs inspector to inspect and certify eggs produced within and imported into the territory as to specific grades, standards of quality, condition and size-weight classes required pursuant to § 66103.

(b) The Department shall establish rules and regulations with respect to the procedure for inspection and certification and assessment and collection of fees for requested inspection and certification; provided, however, the rate for such service shall not exceed Three Dollars and Fifty Cents (\$3.50) per hour for each inspector; provided, further, that producers having less two thousand (2,000) layers in production shall not be assessed any fee for the services under this section.

(c) The inspection fee levied hereunder shall be paid by the person first marketing eggs within the territory and such inspection and certification fee shall be paid but once on the same quantity of eggs so long as such eggs remain in their original container. The inspection fee levied hereunder shall be deposited in the General Fund of the government of Guam.

SOURCE: GC § 12503.

§ 66105. Labeling and Advertising.

(a) The container in which any eggs are marketed in this territory shall bear prominently on the outside portion thereof the following information:

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- (1) The grade of the eggs and the date when the eggs were graded;
- (2) The size-weight class of the eggs;
- (3) The word eggs;
- (4) The numerical count of the eggs;
- (5) The name and address of the packer, or if the packer is not located within the territory, the name and address of the distributor; and
- (6) The country of origin of the eggs.

(b) Eggs marketed in any manner other than in containers labeled in accordance with paragraph (a) shall be kept in full view of prospective purchasers and shall have adjacent thereto, and prominently displayed, a sign or similar device bearing the information required by paragraph (a) of this section. Any such sign or device shall bear letters and numbers of such character and size as shall be required by the Department pursuant to its rules and regulations.

(c) The term fresh eggs, or any legend, symbol, picture, representation or device declaring or tending to convey the impression that the eggs are fresh may be applied only to eggs meeting the requirements of grade or grades established by the Department for fresh eggs and may not be applied to any eggs held in cold storage for more than thirty (30) days.

(d) The terms Guam, locally produced, chada fresca, or any legend, symbol, picture, representation or device declaring or tending to convey the impression that the eggs are produced on Guam may be applied only to eggs produced in this Territory.

(e) No label, container, display or advertisement of eggs shall contain incorrect, fraudulent or misleading representation. No person shall advertise eggs for sale unless the unabbreviated grade, the size-weight class and the country of origin are conspicuously designated in block letters at least half as high as the tallest letter in the word eggs or the tallest figure in the price, whichever is larger.

(f) Letters and numerals used to designate the grade and size-weight class of eggs marketed in containers shall be in clear, bold-faced type and of a size as shall be required by the Department pursuant to its rules and

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regulations. Cartons, cases, crates, or other containers holding two or more smaller containers of eggs shall also be lettered and numbered in accordance with the provisions of this paragraph. Any carton, case, crate, or other container which is reused shall upon such reuse have obliterated or removed therefrom any labels, lettering, or other symbols or representations not applicable to the contents upon such reuse.

(g) If eggs are stored for more than thirty (30) days after the date of grading, they shall not be marketed within the territory unless, if the sale is to a retailer or institutional consumer, the fact of such cold storage is disclosed on the invoice for the transaction, and if the sale is to a consumer, the fact of such cold storage is disclosed on a sign or similar device prominently displayed adjacent to the eggs and kept in full view of prospective consumers. The Department shall adopt such other rules and regulations as will insure that retailers, institutional consumers and consumers are adequately informed as to the fact of such cold storage, including but not limited to the form of the invoice and rules governing the size of the sign and the size of the lettering on such sign.

SOURCE: GC § 12504.

§ 66106. Invoices.

Any person marketing eggs to a retailer or institutional consumer shall furnish to such purchaser at the time of delivery of the eggs an invoice showing the date of sale, name and address of the seller, name of purchasers, quantity, country of origin, grade and size-weight class of the eggs delivered. The invoice or a copy thereof shall be kept on file by the seller and the purchaser at their respective places of business for a period of at least sixty (60) days.

SOURCE: GC § 12505.

§ 66107. Sanitation and Handling.

(a) Any person assembling, transporting, marketing, processing, storing or displaying eggs for marketing shall keep the eggs at a temperature not higher than forty-five degrees Fahrenheit (45°F) nor lower than thirty-five degrees Fahrenheit (35°F). Each storage or display facility shall be provided with an indicating thermometer accurate to plus or minus two degrees Fahrenheit ($\pm 2^\circ\text{F}$), located in the warmest part of the facility in which the eggs are stored or displayed and of such type and

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so situated so that the thermometer can be easily and readily observed for reading.

(b) Any container, including the packaging material therein or associated therewith, shall be clean, unbroken and free from foreign odor.

(c) The Department shall by rules and regulations provide for the keeping, processing, transporting and the marketing of eggs under sanitary conditions.

(d) Nothing in this Chapter or in any rules or regulations of the Department shall be construed to exempt any persons or premises from the application thereto of any laws otherwise applicable and relating to the operation of establishments or facilities for the storing, transporting, sale, distribution, preparation or serving of food.

SOURCE: GC § 12506.

§ 66108. Right of Entry and Inspection.

The Department, acting by any duly authorized officer, employee, or agent, may enter on or into any premises or any vehicle where eggs are bought, stored, sold, offered for sale, processed, or transported, or wherein the Department has reason to believe that any such activity is carried on, in order to inspect and examine eggs, egg containers and any equipment, facilities or records pertinent to the conduct of activities subject to the provisions of this Chapter or rules and regulations implementing the same, or to ascertain the state of compliance with any order issued by the Department pursuant to this Chapter.

SOURCE: GC § 12507.

§ 66109. Stop Sale Order and Seizure.

(a) If, after inspection, the Department determines that any eggs are being marketed, displayed, stored, processed or transported in violation of this Chapter, or rules or regulations implementing the same, the Director may issue a Stop Sale Order as to such eggs, directed to the owner or custodian thereof. Such order shall specify the reason for its issuance and shall detail the character of the violation. No eggs to which a Stop Sale Order applies shall be marketed until and unless the Order has been withdrawn. The Department shall withdraw a Stop Sale Order

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only upon its determination that the conditions leading to the issuance of the order have been corrected.

(b) Whenever the public interest requires, the Department may take possession or custody of the eggs against which a Stop Sale Order has been issued and may commence proceedings for the seizure thereof. Upon seizure and proof of violation the eggs shall be disposed of in such manner as may be consistent with the public safety and interest. The owner or custodian of the eggs shall not be entitled to any compensation or damages on account of such seizure or disposition.

SOURCE: GC § 12508.

§ 66110. Exceptions: Producers; Shippers.

(a) Producers marketing eggs directly to a consumer and to other premises where produced only are excepted from the coverage of this Chapter.

(b) All types of shippers marketing eggs to a first receiver within the territory who will grade them into the proper grade and size-weight class before reselling are excepted from the coverage of this Chapter.

SOURCE: GC § 12509.

§ 66111. Rule Making.

The Department may, subject to the Administrative Adjudication Act, make and amend, from time to time, such rules and regulations as may be necessary to administer and implement the provisions of this Chapter.

SOURCE: GC § 12510.

§ 66112. Enforcement.

The Department is empowered through its authorized officers, employees, agents and inspectors to enforce the provisions of this Chapter and to have supervision and control of all officers in Guam enforcing this Chapter.

SOURCE: GC § 12511.

§ 66113. Penalty.

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Any person who violates any provision of this Chapter or any rule or regulation issued pursuant thereto shall be guilty of a petty misdemeanor.

SOURCE: GC § 12512, amended by P.L. 13-187:111.

§ 66114. Injunction.

(a) The Department, acting by the Attorney General, may enforce any provision of this Chapter or any rule or regulation issued pursuant thereto by bringing an action in the Superior Court for an injunction.

(b) If the court issues an injunction under this section, it shall retain jurisdiction, and the action shall be continued, and in such cases the Attorney General acting in the name of the Territory may upon a violation of the terms of an injunction, petition the court for recovery of civil penalties in the amount of One Thousand Dollars (\$1,000) for each day in violation of the injunction.

SOURCE: GC § 12513. Reference to Island Court changed to Superior Court by authority of P.L. 12-85.

§ 66115. Private Remedy.

(a) Whether he seeks or is entitled to damages or otherwise has an adequate remedy at law any person may bring an action in the Superior Court to enjoin, in accordance with the principles of equity, any person who has violated, is violating, or is likely to violate the provisions of this Chapter or any rule or regulation issued pursuant thereto.

(b) No security shall be required for the issuance of any restraining order or preliminary injunction in an action brought under this section.

(c) In any action brought by a person under this section, the court may award, in addition to the relief provided in this section, reasonable attorney's fees and costs.

SOURCE: GC § 12514. Island Court changed to Superior Court by authority of P.L. 12-85.

§ 66116. Remedies Not Exclusive.

The institution of proceedings for the application of any remedy available pursuant to this Chapter, or the issuance of any order on account thereof, or the imposition of any fine or penalty pursuant to this Chapter, shall not operate as a bar or limitation to the application of any remedy available pursuant to any other applicable law.

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SOURCE: GC § 12515.

§ 66117. Judicial Review.

Any determinations or final actions of the Department taken pursuant to or under color of this Chapter shall be reviewable in accordance with the Administrative Adjudication Act by a proceeding in the Superior Court, except that orders issued pursuant to § 66109(a) and the taking possession or custody of eggs or containers of eggs pursuant to § 66109(b) shall have the status of emergency actions necessary for the protection of the public health and shall not be subject to injunction or stay.

SOURCE: GC § 12516.

§ 66118. Severability.

The provisions of this Chapter are severable, and if any of its provisions or their application to any person or circumstances shall be held unconstitutional or invalid by a court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions or applications of this Chapter which can be given effect without the invalid provision or application.

SOURCE: GC § 12517.

§ 66119. Laws Repealed.

The provisions of this Chapter are cumulative and shall not be construed to repeal any laws or parts of laws not in conflict herewith.

SOURCE: GC § 12518.

CROSS-REFERENCE: See 10 GCA Chapter 40 for the Guam Food, Drug and Cosmetic Act.
