

## Frank's Note

The pork industry is constantly evolving, and producers take great pride in their innovation and entrepreneurial spirit. Certainly, over the years, there have been numerous changes in buildings, equipment, management processes and regulations, and that same drive to improve will continue into the years ahead.

There is no one size fits all, and as a pork producer, you need to do what is best for your sows, your employees and your operation. As they say, change is constant, and while you may not know what changes lie ahead, your business will be different 2, 5, 10 years from now than it is today. Decisions will need to be made, and those decisions will impact your bottom line.

*Farmweld* has adopted the “We Care” philosophy and incorporated it into our everyday operations, including how it pertains to our employees, our customers and our products. Whether you make the decision to comply with the California Prop 12 standards or continue with your current gestation-sow housing system, *Farmweld* is here to help.

Our gestation solutions include free-access stalls and gestation stanchions for group housing and gestation stalls for individual housing.

Our sales staff is happy to discuss your needs and help determine what is best for your business. Simply give us a call at 800-EAT-PORK (328-7675) or visit [farmweld.com](http://farmweld.com).



Frank Brummer  
President  
*Farmweld, Inc.*

## California Prop 12: What Lies Ahead?

Now that the dust has settled from the U.S. Supreme Court's decision, here's a look at what pork producers can expect going forward.



It has been a long road of uncertainty stemming from the 2018 California referendum that's now known simply as Prop 12, which dictates gestation-sow housing requirements for any whole, uncooked pork to be sold within the state. It also addresses housing for veal calves and laying hens.

Prop 12 eventually ended up in front of the U.S. Supreme Court, where the National Pork Producers Council and the American Farm Bureau Federation argued that the California measure violated the Commerce Clause of the U.S. Constitution. The justices disagreed by a 5-to-4 vote.

“Companies that choose to sell products in various states must normally comply with the laws of those various states,” wrote Justice Neil Gorsuch in the court ruling. The justices also recommended that Congress address the animal-housing issue so that a patchwork of regulations does not materialize.

Enforcement of Prop 12 will not begin until Jan. 1, 2024, to allow a transition period for packers/

distributors and pork producers selling into the California market.

With a population of approximately 40 million people, that market accounts for about 15 percent of annual domestic pork consumption or 10 percent of U.S. production.

A few notable points about the measure: Any whole, fresh pork meat in the pipeline as of July 1, 2023, could be sold in California. After July 1, only Prop 12-compliant pigs could be harvested and the pork sold in the state. Cooked, ground or pulverized pork meat is exempt.

The California Department of Food and Agriculture (CDFA) will oversee the implementation and enforcement of Prop 12. As a major trading partner, Canadian producers must follow the rearing guidelines, as well as Mexico, but with a lesser impact.

## Producer Compliance Requirements

Packers/distributors that supply pork into California will be responsible

for confirming Prop 12 compliance. In turn, they will require suppliers — pork producers — to meet Prop 12 specifications and provide proof in the form of an audit certificate.

The regulation covers gestation-sow housing, not farrowing. Think in terms of 6-month-old gilts. “It’s not a hard line at 6 months; what’s really important is when the gilt enters the breeding herd,” says Elizabeth Cox, animal-care program manager for CDFA, who will lead Prop 12 enforcement. “Also, a sow doesn’t have to be compliant from when she was a gilt; she could move into Prop 12-compliant housing during her most immediate gestation cycle, and those offspring would be considered compliant.”

A pregnant sow can move into a farrowing crate 5 days prior to its expected farrowing date and remain there until weaning. There are no specifications about the lactation length. Once the litter is weaned and the sow moves back to the breeding/gestation phase, the Prop 12-housing requirements apply.

Cox points out the following:

- Each breeding pig must have 24 square feet of usable floor space. This also applies to outdoor pens or pastures.
- The animal must be able to stand up, lie down, fully extend its limbs and turn around freely, which means turning in a complete circle without any impediment



**Elizabeth Cox**, animal-care program manager, California Department of Food and Agriculture

from the sides of the enclosure or another animal.

- This space allotment must always be available to the animals in the enclosure.

“We understand that not all enclosures are a perfect square or rectangle, but this helps guide people as they think about the space,” Cox says. “No two sows are the same, and no two facilities are the same.”

She points out that this is not a group-housing bill, “although it could be a practical solution.” Estimates are that 30 percent to 35 percent of U.S. producers have group sow-housing systems; in Canada, it’s roughly 55 percent. However, it’s also projected that most group-housing systems do not meet Prop 12 requirements and will need to be converted.

Electronic sow feeding (ESF) systems, feeding stanchions and free-access stalls are viable options. Cox offers this additional guidance:

- **For a facility with ESF**, that system eliminates usable floorspace and must be subtracted from the whole. So,

producers will have to allow more space or decrease sow numbers in the pen to meet the space requirements.

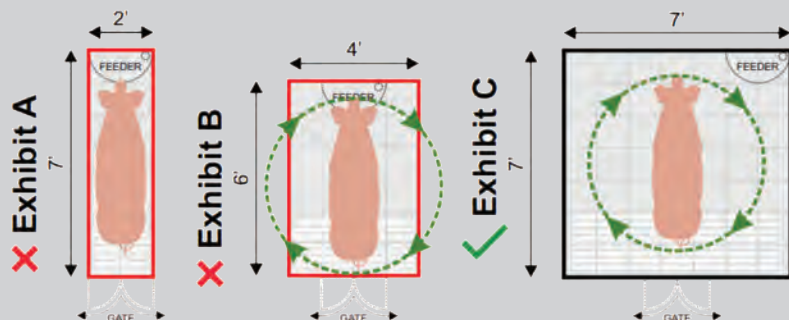
- **For feeding stanchions**, the feeding space where the sow stands and eats can be counted with the flooring space, as can the space where the sow can turn around freely in the back of the pen.
- **Free-access stall space is similar**, with the enclosure’s length and width calculation meeting the requirements of 24 square feet per animal and the ability to turn around freely.

## Exceptions to the Rule

Of course, there are times when a breeding pig needs to be restrained. Cox outlines the exceptions within Prop 12:

- Examination, testing, individual treatment or operation for veterinary purposes. This must be handled by a licensed veterinarian as part of a veterinarian/client/patient relationship.
- Transportation and slaughter.
- Temporary periods for animal-husbandry purposes but for no more than 6 hours in a 24-hour period and a maximum of 24 hours in a 30-day period.
- Exhibitions such as state or county fairs.
- As noted, 5 days prior to the sow’s expected farrowing date and during lactation.

## Exhibit A-C: Individual-Housing Systems



Source: California Department of Food and Agriculture

Exhibits A-C illustrate sows housed in individual-housing systems that confine a sow to an enclosure that is locked and can only be opened by a person. Exhibit A illustrates an individual stall with a common commercial stall size of 14 square feet. Exhibit A is a non-compliant enclosure. Exhibit B illustrates a similar style stall which provides the minimum usable floorspace requirements of 24 square feet, but Exhibit B is not a compliant enclosure because it does not allow the sow to turn around freely. Exhibit C illustrates an individual pen with 49 square feet of usable floorspace. This system allows the sow to turn around freely and would be a compliant housing enclosure.

Note that the common practice of holding a sow in a stall for a 30-day period following insemination will not be allowed.

## Auditing and Certification

Packers/distributors will require an audit and certification for all pork producers sending pigs to harvest or fresh pork into California as of Jan. 1, 2024. The producer will select the auditor from a CDFA-approved list, which is actively building and can be found online.

Actual enforcement occurs at the California sale, which means the distributor, says Annette Jones, California state veterinarian. “They’re required to have an audit trail all the way back to finishing, farrowing and the commercial breeding operation,” she notes. “So, the producer’s obligation is to have a third-party certification in 2024 and have records of where the compliant pigs went for finishing and that they’ve been kept separate from non-compliant pigs.”

Notably, a producer can keep Prop 12-compliant and non-compliant gestation barns, provided he/she can demonstrate

the procedures to keep them segregated, Cox says. “That applies to the offspring as well.”

A third-party audit to certify a facility as Pork CA Prop 12 compliant will involve an on-site inspection for each location keeping breeding pigs. The auditor will walk all barns — breeding, gestation and farrowing — focusing on Prop 12 housing standards, along with recordkeeping. The audits will be conducted annually to renew the certification.

Most any recordkeeping system is allowed. General records will include operation size, number and type of barns, split production and inventory. More specific records will be used to provide breeding-pig location changes (farrowing/lactation and wean date), also how and why exceptions are being applied; to trace compliant weaned-pig flow to nursery and finishing barns; and finally, to label market-hog shipments as Pork CA Prop 12 compliant or non-compliant for packers/distributors. Records must be maintained for 2 years from the date created and be made available for inspection and audit by CDFA or an accredited certifying agent.

All audits are pass/fail. If a location is determined non-compliant it is allowed 30 days to make corrections and show proof through an action plan, followed by a re-audit.

## The Challenges Continue

Although the U.S. Supreme Court has ruled on California’s Prop 12, challenges on both sides of the issue continue.

Massachusetts voters passed the Act to Prevent Cruelty to Farm Animals, now known as Question 3, back in 2016. Following a range of court challenges, the law, which addresses sow housing among other things, was set to begin on Aug. 23, 2023. Importantly, once Question 3 is implemented, it would ban the sale of uncooked pork meat, including ground pork, that does not meet the state’s sow-housing requirements. It also would prohibit any non-compliant pork to be shipped through Massachusetts to other states.

Triumph Foods filed a lawsuit on July 26, 2023, in Massachusetts federal court to challenge the constitutionality of Question



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3. Christensen Farms Midwest, The Hanor Co. of Wisconsin, New Fashion Pork, Eichelberger Farms and Allied Producers' Cooperative, a group of smaller Midwest farmers, also signed on.

"Discriminatory trade restrictions like Question 3 and Prop 12 affect the ability to build resilient, reliable food supply chains across the United States," says Matt England, Triumph Foods president and chief executive officer. "They also hurt many small businesses, employees, consumers and government-funded agencies. Free and fair interstate commerce is vital for the economic prosperity of our country."

Iowa Pork Producers Association has filed similar litigation, which Triumph supports.

On July 26, 2023, the New Jersey governor signed into law new regulations for breeding pigs (and calves) that prohibit enclosures preventing the animal from moving freely and grooming itself and that limit visual eye contact with other animals. The law goes into effect 180 days after the governor's signing.

Exceptions to the housing-law requirements mirror those of Prop 12 but allow sows to move into farrowing crates 14 days prior to farrowing. New Jersey is the 11th state to adopt gestation-sow housing requirements of varying degrees.

Governors from 11 states sent a letter urging Congress to block Prop 12. This summer, 10 U.S. senators signed on to the Ending Agricultural Trade Suppression or the EATS act, which challenges Prop 12 animal-housing requirements.

Clearly, gestation-sow housing issues are not resolved and will continue in the years to come. Some producers have made the commitment to comply with Prop 12; others remain on the sidelines.

More information on Prop 12 compliance, a list of certifying agents and much more is available at [CDFA.ca.gov/AHFSS/AnimalCare](https://CDFA.ca.gov/AHFSS/AnimalCare). 

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**PROP 12 FRIENDLY**

