

Eggs

Backyard flocks are not an uncommon occurrence in Ohio and can be an opportunity for chicken owners to create an additional source of income through the sale of eggs. Small egg operators enjoy certain exemptions that make the small-scale sale of farm fresh eggs possible without jumping through the regular regulatory hoops a larger scale operation is subject to. While there are less requirements imposed on small scale operators, this does not mean there are absolutely no regulatory requirements. Registration requirements will vary based on where a person would like to sell their eggs. The production and sale of eggs can be regulated and supervised by up to four government agencies: USDA, FDA, ODA, and/or a local health department. Anyone looking to sell eggs should first check what regulatory requirements they must meet.

Regulations

Federal

Under the Egg Products Inspection Act,¹ it is unlawful to buy, sell, or transport in commerce any restricted eggs capable of use as human food unless specifically authorized by regulation.² USDA has the authority to inspect egg producers and egg processing establishments to ensure regulatory compliance and to prevent any restricted eggs or restricted egg products from entering the market for human consumption.³

A restricted egg means any check, dirty egg, incubator reject, inedible, leaker, or loss.⁴

- **Check:** An egg that has a broken shell or crack in the shell but has its shell membranes intact and contents not leaking.
- **Dirty egg:** An egg that has an unbroken shell with adhering dirt or foreign material.
- **Incubator reject:** An egg that has been subjected to incubation and has been removed from incubation during the hatching operations as infertile or otherwise unhatchable.



- **Inedible:** An egg that has one of the following descriptions: black rot, yellow rot, white rot, mixed rot, sour egg, egg with a green white, egg with a stuck yolk, moldy egg, musty egg, egg showing blood rings, and an egg containing embryo chicks.
- **Leaker:** An egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exposed or are exuding or free to exude through the shell.
- **Loss:** an egg is unfit for human food because it is smashed or broken so that its contents are leaking; or overheated, frozen, or contaminated; or an incubator reject; or because it contains a bloody white, large meat or blood spot, a large quantity of blood, or other foreign material.⁵

Restricted eggs must be properly disposed of by either shipping the egg directly to a processing plant for segregation and processing, destroying the egg, or by processing the egg for industrial use or animal food.⁶ To ensure compliance, USDA, through the Agricultural Marketing Service, will conduct periodic inspections of facilities, inventories, operations, transport vehicles, and records of egg handlers engaged in the transporting, shipping, or receiving of eggs.⁷

¹ 21 USC 15

² 21 USC 15 1037

³ 21 USC 15 1034, Specifically the Agricultural Marketing Service and the Food and Safety Inspection Service

⁴ 21 USC 15 1033

⁵ 7 CFR 57.1, 9 CFR 590.5

⁶ 7 CFR 57.720

⁷ 7 CFR 57.28

Egg producers that sell the eggs from their own flocks at the site of production, on a door-to-door retail route, or at an established place of business away from the site of production owned by the producer are exempt from the AMS enforced regulations and inspections when they sell fewer than 30 dozen eggs that contain no more loss or leaker eggs allowed under the U.S. Consumer Grade B shell egg standards.⁸ Egg producers with a flock of 3,000 hens or less, or producers who sell directly to household consumers are also exempt from the AMS regulations.⁹

Egg processing plants are subject to continuous USDA Food Safety Inspection Service, inspections.¹⁰ An egg product is any dried, frozen, or liquid egg, with or without added ingredients.¹¹ Cooked egg products are not included within the definition of egg products for purposes of the EPIA. Unless otherwise exempt, all egg products must be pasteurized prior to leaving a processing plant subject to USDA inspection.¹² Poultry producers who process and sell eggs from their own flock directly to household consumers for their exclusive use are exempt from continuous FSIS inspection.¹³

In addition to specifying the standards of identity for egg products, the FDA has the authority to regulate and inspect egg production establishments.¹⁴ Under the “Prevention of Salmonella Enteritidis in Shell Eggs During Production, Storage, and Transportation final rule, egg producers and processors must take measures to prevent human consumption of eggs contaminated with the bacterium Salmonella Enteritidis. Individualized written SE prevention plans must be made for every egg producing farm including, at minimum, the following prevention measures:¹⁵

- Pullets are raised under SE monitored conditions, or procured from a facility where they were SE monitored;
- A biosecurity program that limits visitors, protects against cross contamination via equipment or people, stray animal prevention, and no at home bird raising;



8 7 CFR 57.100(c)
 9 7 CFR 57.100
 10 21 USC 1034
 11 9 CFR 590.5
 12 21 USC 1036
 13 9 CFR 590.100
 14 21 CFR 118
 15 21 CFR 118.4

- Rodent, fly, and pest monitoring and control;
- Disinfecting and cleaning poultry houses to, at a minimum, remove visible manure, dust, feathers, and old feed;
- Holding and transporting eggs at or below 45 degrees F beginning 36 hours after the egg was laid.

Producers with a flock of less than 3,000 hens and who sell all of their eggs directly to consumers are exempt from the FDA’s SE prevention rule, but are not exempt from the safe handling instructions rule (see Package/Label section).¹⁶

USDA provides a voluntary egg grading service that egg producers may pay to participate in. Only shell eggs that participate in this program are eligible to bear the USDA grade mark. Eggs graded by the USDA service are categorized into one of the following categories:¹⁷

- USDA Grade AA – The freshest and highest quality egg
- USDA Grade A – Very high-quality eggs
- USDA Grade B – Eggs are usually used for breaking stock (liquid eggs) and baking.

Certified inspectors will evaluate egg quality by observing the shell, the air cell, the white, and the yolk. AA quality eggs will have normal, clean and unbroken shells with 1/8 an inch or less of an air cell, a white that is clear and firm, and a yolk that is slightly defined and clear from defect.

For more information about USDA grading you can visit USDA’s website: ofb.ag/eggstandards.

State

Licensing or registration requirements for shell egg producers will vary depending on the producer and where they would like to sell their eggs. At a baseline, a place where food is stored, processed, prepared, or otherwise held for sale must register to obtain a Retail Food Establishment License unless otherwise exempt.¹⁸ Additionally, ODA has the authority to enter and inspect any premises where eggs are produced, processed, stored, or sold as necessary to determine regulatory compliance.¹⁹ Depending on where the eggs will be sold, RFE or ODA registration exemptions may apply.

Generally, egg producers and processors must maintain shell eggs in refrigeration at a temperature that does not exceed 45 degrees Fahrenheit.²⁰ Egg producers and processors are also required to keep records of the date of processing of the shell eggs distributed, sold, or offered for sale by them for six months.²¹ Small egg producers who maintain 500 birds or less and sell their eggs only from the place where the eggs at the place of production are exempt from the refrigeration and recording keeping requirements.²²

16 21 CFR 118
 17 ORC 925.02, 7 CFR 56
 18 ORC 3717.22
 19 ORC 925.07, 925.10
 20 ORC 925.03
 21 ORC 925.04
 22 ORC 925.10

Small egg operators maintaining 500 or fewer birds who wish to only sell raw eggs from the premises where the eggs are produced may do so without obtaining a Retail Food Establishment license from their local health department or registering with ODA.²³ However, producers who sell eggs at the location of production may voluntarily register as a farm market with ODA to receive an inspection and certificate of registration.²⁴ ODA registration is free and inspections will include:

- a review of the label and packaging to ensure all legal requirements have been met,
- checking that the eggs are properly refrigerated at 45 degrees or less, and
- ensuring homes served by private wells have tested negative for coliform bacteria within the past year.

Those who pass inspection and receive a certificate of registration that shows they are in compliance with the law will be eligible to sell their eggs directly to retailers, hotels, restaurants, or institutions as an approved source.²⁵ Approved sources will also be eligible to sell their eggs directly to consumers offsite at a farmers' market if they obtain an RFE license from the health department.²⁶

Eggs that are to be offered for sale outside of the premises where they were produced must be kept in refrigeration at an ambient temperature that does not exceed 45 degrees Fahrenheit from the time the egg is received to the time the egg is sold.²⁷ Refrigeration equipment must have in use at all times a thermometer, graduated in degrees Fahrenheit, that clearly indicates the temperature at which the eggs are being maintained.

Small egg operators who choose to sell eggs at an onsite registered farm market alongside other approved farm market items are also exempt from RFE licensing.²⁸ However, if a farm market would like to sell eggs alongside items that are not approved farm market items, an RFE license will be required in addition to the ODA farm market registration.²⁹ For more information about farm market licensing, please see page 9.

Package and Labeling

Egg cartons must be labeled in a prominent location with a conspicuous font providing the following information:³⁰

- The name and address of the packer or distributor;
- An accurate statement of the quantity of the contents in terms of numerical count;
- The date the eggs were packed into the carton;



- The identification of “ungraded” or “unclassified”³¹; and
- The phrase “mixed sized”.

The package must also include a safe handling statement either on the outside of the carton or inside of the carton lid. The safe handling statement should read as follows: “SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.”³²

Cartons may be reused if they are clean, free from debris, and in sound condition. When reusing a carton created by a processor other than the current user, all non-pertinent information such as the original processor’s information, any graded information, dates, etc., must be defaced from the carton.

Sale

The necessary licensing/registration requirements for small scale egg producers will be determined by where the producer would like to sell their eggs.

- Direct to the consumer from the farm the birds were raised: no licensing/registration requirements.³³
- At an on-site farm market with other approved farm market items: ODA Farm Market Registration required.³⁴
- At a farmers market: RFE license from the local health department and small egg operator license.³⁵
- At a farm product auction: no licensing/registration requirement, though voluntary registration is available with ODA.³⁶
- To a restaurant, hotel, or retailer: Small egg operator registration.³⁷

23 ORC 3717.22(B)(8)

24 ORC 3717.221

25 OAC 3717-1-03.1(A)

26 ORC 3717.21 & 3717.01

27 ORC 925.03, 925.10

28 ORC 3717.22(B)(16)

29 ORC 3717.21

30 ORC 925.021

31 It is illegal to falsely advertise, label, or imply that ungraded eggs have been federally graded. See ORC 925.025.

32 21 CFR 101.17(h)

33 ORC 3717.22(B)(8)

34 Note, if items other than farm market products are sold then the producer will need to obtain an RFE license from the local health department. See ORC 3717.21 & 3717.22

35 ORC 3717.21, 3717.01, 925, 3715.021, 3715.041(G)(6)

36 ORC 3717.22(B)(8)

37 OAC 3717-1-03.1(A)

Checklist for Small Egg Producers

- step 1** Verify you qualify for the small producer exemption by maintaining less than 500 birds annually.
- step 2** Ensure you have properly labeled clean and sound egg cartons with all of the necessary information.
- step 3** Make sure you are able to properly refrigerate eggs. This means that, unless the eggs are sold direct to consumer from the farm, the eggs are being kept at temperature of 45 degrees.
- step 4** Decide where you would like to sell your eggs and determine the proper licensing/registration requirements.

Contacts and Resources

Ohio Department of Agriculture Division of Food Safety

Phone: (614) 728-6250

Email: foodsafety@agri.ohio.gov

Web: ofb.ag/eggsafety

Additional Resources

Egg Products Inspection Act: ofb.ag/egginspection

USDA Shell Eggs From Farm to Table: ofb.ag/egghandling