

TITLE 370 STATE EGG BOARD

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Statement of Order and Definitions

370 IAC 1-1-1 Applicability of state standards

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. The official Indiana standards for the quality of shell eggs contained in this rule are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. (*State Egg Board; Reg 1, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 81; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1542; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-1-2 Applicability of state standards to interstate or foreign commerce

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. The Egg Products Inspection Act (21 U.S.C. 1031 through 21 U.S.C. 1056) provide, Sec. 23, (b), "For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official Federal standards, (2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, federal requirements, and (3) no state or local jurisdiction other than those in noncontiguous areas of the United States may require labeling to show the state or other geographical area of production or origin. Provided, however, that this shall not preclude a state from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container." (*State Egg Board; Reg 1, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1542; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-1-3 Uniform grade standards; adoption of federal standards

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. (a) In the interest of maintaining uniform grade standards in Indiana, the state egg board hereby adopts the United States Standards, Grades, and Weight Classes for Shell Eggs promulgated by the United States Department of Agriculture (AMS 56) as the official standards for quality, grade, and weight classes for Indiana, including 7 CFR 57, Regulations Governing the Inspection of Eggs.

(b) Treated eggs, as defined in IC 16-42-11:

(1) have no recognized grade standards published by the United States Department of Agriculture; and

(2) shall be exempt from quality and weight standards with the exception of tolerances for:

(A) dirties;

(B) checks;

(C) leakers; and

(D) loss;

as defined by United States Department of Agriculture publication (AMS 56).

(*State Egg Board; Reg 1, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; errata, 9 IR 779; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1542; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA*)

370 IAC 1-1-4 Candling; Haugh unit value

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 4. Interior egg quality specifications for this section are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable consistently accurate determination of the interior quality of shell eggs. It is desirable to break out an occasional egg and to determine the Haugh unit value of the broken out and candled appearance thereby aiding in correlating candled and broken out appearance. (*State Egg Board; Reg 1, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1542; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-1-5 Haugh measurements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 5. Specifications for measuring the thick albumen condition is [*sic., are*] based on the use of a specially designed micrometer or slide rule to determine the relationship between the weight of an egg and the height of the thick white. The readings are taken in units ranging from zero (0) to one hundred (100) after the egg has been broken out on a flat surface. (*State Egg Board; Reg 1, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1542; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

Rule 2. Temperature Requirements**370 IAC 1-2-1 Temperature requirements; dealer facilities**

Authority: IC 16-42-11-5

Affected: IC 16-42-11

Sec. 1. Every registered person, partnership, firm, or corporation permitted to handle or sell eggs under the provisions of IC 16-42-11 shall, upon delivery, provide adequate space and storage facilities to hold shell eggs at an ambient temperature of forty-five (45) degrees Fahrenheit or below. (*State Egg Board; Reg 2, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1775; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-2-2 Temperature requirements; retail stores

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. Upon delivery, shell eggs at the retail store shall be stored and displayed at an ambient temperature of forty-five (45) degrees Fahrenheit or below. (*State Egg Board; Reg 2, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-2-3 Temperature requirements; transportation

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. All eggs packed in containers for the purpose of resale to consumers shall be transported under refrigeration at an ambient temperature no greater than forty-five (45) degrees Fahrenheit or seven and two-tenths (7.2) degrees Celsius. (*State Egg Board; 370 IAC 1-2-3; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-*

370090393RFA)

Rule 3. Display and Labeling; Restricted Eggs

370 IAC 1-3-1 Wholesale packaging and labeling

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. The eggs shall be sold at wholesale in cases, boxes, or containers that shall be plainly labeled as:

(1) Grade AA, Grade A, or Grade B; and

(2) to size, "Jumbo", "Extra Large", "Large", "Medium", "Small", or "Pee Wee";

according to standards of quality and size established in this article. (*State Egg Board; Reg 3, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-3-2 Consumer packages; date requirements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers):

(1) shall be legibly dated (month and day or consecutive day of the year) the day the eggs were packed;

(2) shall bear an expiration date of not more than thirty (30) days from date of pack, excluding date of pack; and

(3) may contain a "BEST BY", "BEST IF USED BY", or "USE BY" date in addition to the expiration date, which shall not exceed forty-five (45) days from the date of pack, excluding the date of pack.

Shell eggs labeled AA shall bear in distinctly legible form an expiration date of not more than fifteen (15) days from date of pack excluding date of pack. The expiration date shall be stated as the month and day, for example, April 3 or 4-3, preceded by the letters "EXP" or "SELL BY". Quality is best if sold by the expiration date. (*State Egg Board; Reg 3, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1225; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA*)

370 IAC 1-3-3 Consumer packages; packer identification

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall be labeled with one (1) of the following means of identification:

(1) Name and address of packer.

(2) Indiana state egg license number, for example, IN-000.

(3) United States Department of Agriculture plant number, for example, P-000.

(4) Egg license number from another state, provided the number is on file in writing at the state egg board office.

(5) United States Department of Agriculture Shell Egg Surveillance number, including state code and handler code, for example, 18-0000. Note: The Shell Egg Surveillance registrant number contains a state code, county code, and handler code.

Do not include the county code, only state and handler number.

All eggs offered for sale in cases, boxes, or cartons shall contain labeling that indicates refrigeration is required. Additionally, all cartons of shell eggs shall bear the statement, "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.". The statement shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type. The statement shall be set off in a box by use of hairlines. Shell eggs that have been specifically processed to destroy all viable salmonella shall be exempt from this requirement. (*State Egg Board; Reg 3, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Feb 13, 1985,*

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1:57 p.m.: 8 IR 794; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1543; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA)

370 IAC 1-3-4 Restricted eggs; definition; labeling

Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 4. (a) Regulations Governing the Inspection of Eggs (7 CFR 57) requires that eggs classed as restricted eggs, dirties, checks, leakers, and loss and incubator rejects as well as graded eggs, exceeding the tolerances allowed for restricted eggs in United States Grade B standards must be labeled with certain required information. (Leakers and loss and incubator rejects must also be denatured or decharacterized at the point of grading.) Labeling must be legible and conspicuous. The name and address of the packer must appear on each case or label.

(b) Examples of labeling shall be as follows:

Restricted Eggs for Processing Only in an Official USDA Egg Products Plant Name _____ Address _____ Zip _____

Dirty and Checked Eggs for Processing Only in an Official USDA Egg Products Plant. Name _____ Address _____ Zip _____

(c) Labeling for loss, leakers, and incubator rejects shall be as follows:

Restricted Eggs. Not to be Used as Human Food. Name _____ Address _____ Zip _____
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Denatured Inedible Egg Products. Not to be Used as Human Food. Name _____ Address _____ Zip _____
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(State Egg Board; Reg 3, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1544; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA)

Rule 4. Inspection and Noncompliance

370 IAC 1-4-1 Inspection

Authority: IC 16-42-11-5
Affected: IC 16-42-11-12

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Sec. 1. All inspectors named by the dean of agriculture of Purdue University as provided for in this article shall, in the inspection of eggs, be governed by the rules of the state egg board, including the standards of quality and weight. (*State Egg Board; Reg 4, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1544; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-4-2 Removal of below standard eggs

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. Shell eggs offered for sale at retail or wholesale and found to be:

(1) below the minimum standards and requirements of quality or weight, or both, for grade and size marked;

(2) offered for sale after the expiration date calculated under 370 IAC 1-3-2; and

(3) displayed or stored at a temperature exceeding the temperature requirements of 370 IAC 1-2;

shall be removed at the time of inspection. (*State Egg Board; Reg 4, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA*)

370 IAC 1-4-3 Violations; inspectors' duties

Authority: IC 16-42-11-5

Affected: IC 16-42-11-12

Sec. 3. The state egg board hereby requests the shell egg inspectors to follow the procedure outlined as follows when the product is found in violation of this article:

(1) Discuss the problem with parties involved and request their cooperation in removing product from sale.

(2) Call the state office when cooperation with the parties involved is not received.

(3) Prepare the report in writing to the state egg board giving details of the violation and disposition of the product, with a copy to the party or parties involved in the violation.

(*State Egg Board; Reg 4, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

Rule 5. Advertising

370 IAC 1-5-1 Advertisements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. At retail, if the price is quoted, all quotations or advertising of any kind by any media connected with the sale of eggs by registrants of this article shall plainly state the grade and size of the eggs so priced in such quotations or advertisements. (*State Egg Board; Reg 5, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

Rule 6. Grade and Size Identification

370 IAC 1-6-1 Grade and size identification

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. (a) All packages, of whatever kind, in which eggs are offered for sale by registrants under this article shall be marked

as:

- (1) Grade AA;
- (2) Grade A; or
- (3) Grade B.
- (b) All packages bearing the grade mark shall be identified as to size by:
 - (1) Jumbo;
 - (2) Ex-Large;
 - (3) Large;
 - (4) Medium;
 - (5) Small; or
 - (6) Pee Wee.

(State Egg Board; Reg 6, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA)

Rule 7. Stamp and Invoices (Repealed)

(Repealed by State Egg Board; Reg 7, Title I, Sec 1; filed Nov 23, 1981, 9:30 am: 5 IR 34, eff Jan 1, 1982)

Rule 8. Fresh Eggs

370 IAC 1-8-1 Fresh eggs

Authority: IC 16-42-11-5
Affected: IC 16-42-11-5

Sec. 1. Fresh eggs shall meet the minimum standards and requirements of quality and weight under 370 IAC 1-1-3 for:

- (1) Indiana Grade AA;
- (2) Indiana Grade A; or
- (3) Indiana Grade B;

eggs. (State Egg Board; Reg 8, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 85; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA)

Rule 9. Wholesaler Records

370 IAC 1-9-1 Record keeping by wholesalers

Authority: IC 16-42-11-5
Affected: IC 16-42-11-10

Sec. 1. (a) All wholesalers shall keep such records as necessary to indicate accurately the case (thirty (30) dozen) volume of shell eggs sold in Indiana. These records shall include the following:

- (1) Invoices showing purchases and sales of shell eggs.
- (2) A sales ledger showing all egg sales made at wholesale in Indiana to any retailer, hotel, restaurant, hospital, school, nursing home, or state of *[sic., or]* federal institution.
- (3) A cumulative summary of sales made in Indiana.

(b) The records required in subsection (a) shall be retained by the wholesaler for a period of one (1) calendar year exclusive of the current operating quarter. *(State Egg Board; 370 IAC 1-9-1; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1545; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA)*

Rule 10. Sanitation Requirements

370 IAC 1-10-1 Shell egg packers

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. (a) This section establishes minimum sanitation and operating requirements for shell egg grading plants engaged in grading, storage, packaging, and distribution of eggs.

(b) Buildings shall be of sound construction so as to prevent the entrance or harboring of vermin.

(c) All areas and rooms in which eggs are handled, graded, and packed shall be kept clean.

(d) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean, sanitary condition.

(e) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water shall be potable and maintained at a temperature of ninety (90) degrees Fahrenheit minimum. The wash water temperature must be at least twenty (20) degrees Fahrenheit greater than the egg temperature. The wash water shall be replaced frequently, a minimum of once a day, and the detergent and sanitizer shall be kept at an effective level at all times.

(f) During any rest period, or at anytime when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a build-up of heat.

(g) Only approved cleaning and sanitizing compounds may be used in shell egg processing plants. To assure that only compounds are used for the purpose intended, plant management must provide the inspector, upon request, with a written guaranty stating that each compound used in the shell egg processing plant complies with federal food laws and regulations and can be legally used in the shell egg processing plant for the purpose intended. Washed eggs shall be reasonably dry before containing or casing. (*State Egg Board; 370 IAC 1-10-1; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1226; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1546; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

370 IAC 1-10-2 Retailers and wholesalers

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. (a) This section establishes minimum sanitation requirements for retailers and wholesalers.

(b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors that could affect the quality or taste of eggs.

(c) All storage areas where eggs are held must be maintained in a clean and sanitary condition. (*State Egg Board; 370 IAC 1-10-2; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1778; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937; filed Jan 2, 2003, 10:03 a.m.: 26 IR 1546; readopted filed Sep 2, 2009, 11:37 a.m.: 20090930-IR-370090393RFA*)

Rule 11. Repackaging of Eggs at Retail

370 IAC 1-11-1 Definitions

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. The following definitions apply throughout this rule:

(1) "Brand" means any designation that differentiates a consumer package of eggs, such as, but not limited to, the following:

(A) Production method.

(B) Nutritional claim.

(C) Private label brands.

(D) Shell color.

(2) "Dirty egg" means an individual egg that has an unbroken shell with adhering dirt or foreign material, or prominent stains. Yolk is considered foreign material.

(3) "Leaker" means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg

contents are exuding or free to exude through the shell.

(4) "Lot consolidation" means the removal of damaged eggs from consumer labeled cartons and replacement of the damaged eggs with eggs of the same grade, size, brand, pack date, and packing facility.

(5) "Repacking" means changing the identity of a lot of shell eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, brand, pack date, and packing facility.

(State Egg Board; 370 IAC 1-11-1; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA)

370 IAC 1-11-2 Repacking of eggs

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. (a) The repacking of eggs is not allowed in a retail facility unless the facility performing the repacking is registered with the United States Department of Agriculture as a grading station under the Egg Products Inspection Act, 7 CFR Part 57.

(b) Lot consolidation at a retail location is allowed. Eggs utilized for the purposes of lot consolidation cannot be classified as dirty or a leaker. Such product must be disposed of and not offered to the consumer. *(State Egg Board; 370 IAC 1-11-2; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA)*

Rule 12. Establishment of Permit/Registration Requirements and Associated Fee Structure

370 IAC 1-12-1 Definitions

Authority: IC 16-42-11-10.2

Affected: IC 16-42-11-1.1

Sec. 1. The following definitions apply throughout this rule:

(1) "Distribution facility" means any physical location that stores eggs and is the point of origination for eggs shipped to:

- (A) retailers;
- (B) hotels;
- (C) restaurants;
- (D) hospitals;
- (E) nursing homes;
- (F) schools; or
- (G) state or federal institutions.

(2) "Farmers market retailer" means any producer who sells eggs directly to the consumer, which they produced, at a common facility that meets the definition of a farmers market under IC 16-42-11-1.1.

(3) "Person" means any:

- (A) individual;
- (B) partnership;
- (C) association;
- (D) business trust;
- (E) corporation; or
- (F) organized group of persons, regardless of whether the group is incorporated.

(4) "Retailer" means any person who sells eggs for human consumption and not for resale.

(5) "Wholesaler" means any:

- (A) person engaged in buying eggs for human consumption for resale to:
 - (i) retailers;
 - (ii) hotels;
 - (iii) restaurants;
 - (iv) hospitals;
 - (v) nursing homes;
 - (vi) schools; or

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- (vii) state or federal institutions;
- (B) operators of multiple unit retail outlets engaged in the distribution of eggs to their own retail units; or
- (C) producers who sell or deliver eggs to:
 - (i) retailers;
 - (ii) hotels;
 - (iii) restaurants;
 - (iv) hospitals;
 - (v) nursing homes;
 - (vi) schools; or
 - (vii) state or federal institutions.

(State Egg Board; 370 IAC 1-12-1; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA)

370 IAC 1-12-2 Permits and fee structure

Authority: IC 16-42-11-10.2

Affected: IC 16-42-11-10.2

Sec. 2. (a) Every wholesaler or retailer selling eggs shall, before July 1 of each year, file with the state egg board a statement setting forth the fact that the wholesaler or retailer desires to sell eggs. The statement shall designate:

- (1) the name of the wholesaler or retailer desiring to register the location of the wholesaler's or retailer's principal office; and
- (2) any location where eggs are stored or distributed if that location is different from the principal office.

(b) The state egg board shall require and collect from each retail store or unit of retailing a fee based upon the average number of cases of eggs sold each week during the preceding calendar year, as follows:

Farmers Market Retailer	\$20
Cases/Week	
< 5	\$30
5 – 50	\$50
>50	\$100

(c) The state egg board shall require and collect from each wholesaler or distribution facility at the time of registration a fee based upon the average number of cases of eggs sold to retailers, hotels, restaurants, hospitals, nursing homes, schools, or state or federal institutions each week during the preceding calendar year, as follows:

Cases/Week	
<5	\$50
>5 – 250	\$90
>250 – 500	\$120
>500 – 1,000	\$150
>1,000	\$200

(d) The state egg board shall require and collect from each wholesaler or distribution facility at the time of registration a deposit equal to the product obtained by using a:

- (1) multiplier of eleven cents (\$0.11); and
- (2) multiplicand that is the number of cases of eggs sold in that quarter of the immediately preceding five (5) calendar quarters in which the highest number of cases of eggs were sold by the wholesaler or distribution facility to:

- (A) retailers;
- (B) hotels;
- (C) restaurants;
- (D) hospitals;
- (E) nursing homes;
- (F) schools; or
- (G) state or federal institutions.

However, if the entity does not have a five (5) quarter history, the state egg board shall fix the deposit at a reasonable amount, as

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determined by wholesaler's or distributor's quarterly sales projections.

(e) All registered wholesalers or distribution facilities must make application to the state egg board for a permit to report the case volume of eggs sold in Indiana and submit a fee of eleven cents (\$0.11) for each thirty (30) dozen eggs or a fraction of that number of the volume reported. In applying for a permit, the applicant must agree to do the following:

- (1) Keep records the state egg board considers necessary to indicate accurately the case volume of eggs sold in Indiana.
- (2) Grant the state egg board permission to:
 - (A) examine those records; and
 - (B) verify the statement of the number and grade of eggs reported.

(3) Report under oath to the state egg board, on forms furnished by the state egg board, the number of eggs reported during the period covered.

(f) Registered wholesalers who distribute fewer than five (5) cases per week, based upon the average number of cases of eggs sold to:

- (1) retailers;
- (2) hotels;
- (3) restaurants;
- (4) hospitals;
- (5) nursing homes;
- (6) schools; or
- (7) state or federal institutions;

each week during the preceding calendar year, are not required to pay the deposit in subsection (d) or the case volume fees in subsection (e). They are required to report monthly volumes of eggs sold on a semiannual basis.

(g) Should a farmers market retailer choose to distribute fewer than five (5) cases of eggs per week of their own production to retailers, hotels, restaurants, hospitals, nursing homes, schools, or state or federal institutions, the following combination permit will be available:

Farmers Market Retailer/Wholesaler	\$50
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(State Egg Board; 370 IAC 1-12-2; filed Aug 27, 2010, 12:08 p.m.: 20100922-IR-370090808FRA)

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