

Figure: 176 Egg Program Penalty and Sanction Matrix

Source Law	Violation	First Offense – Penalty Description	Subsequent Offenses – Penalty Description¹
§132.071(b) ⁱⁱ	Selling eggs in violation of a Stop Sale Order.	\$2,500 ⁹	\$5,000 ⁹
§132.004 ² §132.045 ² §132.046 ² §132.082(a) ² §15.7 ⁱⁱⁱ §15.6 ³	Failure to meet standards of quality, grade, and/or size.	<p>If failed to handle eggs under reasonably sanitary conditions. \$2,500⁹</p> <p>If eggs are not shipped under refrigeration, stored or maintained at the temperature set by USDA or FDA. \$2,500⁹</p> <p>If shipped eggs packed ready for retail sale are not at least grade “A”. \$1,000⁹</p> <p>If shipped eggs in Texas are not inspected or graded before being offered for retail sale. \$1,000⁹</p> <p>If inedible⁶ eggs are offered for sale. \$1,500.⁹</p>	<p>If failing to handle egg under reasonably sanitary conditions. \$5,000⁹</p> <p>If eggs are not shipped under refrigeration, stored or maintained at the temperature set by the department. \$5,000⁹</p> <p>If shipped eggs packed ready for retail sale are not at least grade “A”. \$1,500⁹</p> <p>If shipped eggs in Texas are not inspected or graded before being offered for retail sale. \$1,500⁹</p> <p>If inedible⁶ eggs are offered for sale. \$5,000⁹</p>
§132.041 ² §132.042 ²	Offering graded eggs for sale that are not graded by consumer grade and weight classes.	<p>If eggs are graded or sized using a method other than by candling and weighing: \$1,000⁹</p> <p>If eggs are not graded and weighed in accordance to sales towards consumers or wholesalers. \$1,000⁹</p>	<p>Grading or sizing eggs by a method other than by candling and weighing: Stop-sale and \$1,500</p> <p>If eggs are not graded and weighed in accordance to sales towards consumers or wholesalers. \$1,500⁹</p>
§132.044(a,b) ² §132.047 ² §15.7 ³ §15.8 ³	Improper labeling ⁷ .	<p>If label does not state one or more of the following items: either a Texas egg license number or USDA plant number, grade, size, or quantity of eggs. \$500⁹</p> <p>If label makes reference to grade type other than that claimed. \$500⁹</p> <p>Stock carton does not contain in legible print one or more of the following items: grade, size, Texas license number, street address, city, or state of packing plant. \$200⁹.</p> <p>Loose-pack case for retail or wholesale does not include label identifying, in legible boldface capital type or print one or more of the following: size and grade of eggs (if graded) or Texas egg license number, street address; city; or state. \$500⁹.</p> <p>Failure of each breakaway portion of a container to</p>	<p>If label does not state one or more of the following items: either a Texas egg license number or USDA plant number, grade, size, or quantity of eggs. \$1,000⁹</p> <p>If label makes reference to grade type other than that claimed. \$1,000⁹</p> <p>Stock carton does not contain in legible print one or more of the following items: grade, size, Texas license number, street address, city, or state of packing plant. \$500⁹</p> <p>Loose-pack case for retail or wholesale does not include label identifying, in legible boldface capital type or print one or more of the following: size and grade of eggs (if graded) or Texas egg license number; street address; city; or state. \$1,500⁹</p> <p>Failure of each breakaway portion of a container to</p>

		<p>contain full information about one or more of the following: size and grade or quantity of eggs in divided portion; or Texas egg license number, street address, city, and state of grader/packer. \$300⁹.</p> <p>Failure to label eggs as ungraded where appropriate followed by producer's name, only when packed by producer and sold directly to consumer or licensee offering ungraded eggs for sale. \$500⁹</p>	<p>contain full information about one or more of the following: size and grade; quantity of eggs in divided portion; or Texas egg license number, street address, city, and state of grader/packer. \$1,000⁹</p> <p>Failure to label eggs as ungraded where appropriate followed by producer's name, only when packed by producer and sold directly to consumer or licensee offering ungraded eggs for sale. \$1,000⁹</p>
<p>§132.044(b)² §132.084(a)(1,2)² §15.12³</p>	Misleading the consumer.	<p>Advertising or selling shell eggs below grade "A" by advertising as fresh, yard, selected, hennery, etc. or words having a similar meaning. \$500⁹</p> <p>Advertising eggs by price without indicating the full, correct and unabbreviated designation of size and grade. \$500⁹</p>	<p>Advertising or selling shell eggs below grade "A" by advertising as fresh, yard, selected, hennery, etc. or words having a similar meaning. \$1,000⁹</p> <p>Advertising eggs by price without indicating the full, correct and unabbreviated designation of size and grade. \$1,000⁹</p>
<p>§132.005(b)² §132.006² §132.061(c)² §132.072(b)²</p>	Impeding departmental powers.	<p>Failure to make records available for department inspection. \$250.</p> <p>Denial of access to business during normal business hours to take samples of eggs and containers. \$1,000 for each day during which the person refuses to permit access.</p>	<p>Failure to make records available for department inspection. \$500 for each day during which the person fails to make records available.</p> <p>Denial of access to business during normal business hours to take samples of eggs and containers. \$2,500 for each day during which the person refuses to permit access</p> <p>plus, at the department's discretion, suspension or revocation of license.</p>
<p>§132.061² §132.062² §15.9³</p>	Failure to provide or maintain accurate records or reports.	<p>Failure of a licensed dealer/wholesaler or processor to keep on file for two years a complete record of all eggs bought or sold, including name of person to whom sold or from whom bought, number of cases in each transaction, and/or the date of the transaction. For each reporting period, up to maximum of \$1,500:</p> <p>Dealer/Wholesaler Class 1-5 \$250 Class 6-12 \$500</p> <p>Processor Class 1-2 \$250 Class 3-4 \$500</p> <p>Broker Up to 270 Cases \$250 More than 270 Cases \$500</p>	<p>Failure of a licensed dealer/wholesaler or processor to keep on file for two years a complete records of all eggs bought or sold, including name of person to whom sold or from whom bought, number of cases in each transaction, and/or the date of the transaction. For each reporting period, up to maximum of \$1,500</p> <p>Dealer/Wholesaler Class 1-5 \$500 Class 6-12 \$1,000</p> <p>Processor Class 1-2 \$500 Class 3-4 \$1,000</p> <p>Broker Up to 270 Cases \$500 More than 270 Cases \$1,000</p>

		<p>Failure of licensed dealer/wholesaler or processor to deliver with each transaction or to keep a copy of a signed invoice listing date, quantity, grade and size of eggs sold. \$1,000</p> <p>Failure to submit⁸ monthly or quarterly report prior to the eleventh day following the reporting period. For each reporting period, up to maximum of \$1,500:</p> <p>Dealer/Wholesaler</p> <ul style="list-style-type: none"> Class 1-3 \$100 Class 4-6 \$200 Class 7-8 \$500 Class 9-11 \$700 Class 12 \$850 <p>Processor</p> <ul style="list-style-type: none"> Class 1 \$100 Class 2-3 \$200 Class 4 \$500 <p>Broker</p> <ul style="list-style-type: none"> 1-99 Cases \$100 100-999 Cases \$200 1,000-2,999 Cases \$500 3,000-9,999 Cases \$700 10,000 Cases or more \$850 <p>Failure of a licensed dealer/wholesaler or processor to accurately report egg business during any month/quarter. \$500</p>	<p>Failure of licensed dealer/wholesaler or processor to deliver with each transaction or to keep a copy of a signed invoice listing date, quantity, grade and size of eggs sold. \$1,500</p> <p>Failure to submit⁸ monthly or quarterly report prior to the eleventh day following the reporting period. For each reporting period, up to maximum of \$1,500:</p> <p>Dealer/Wholesaler</p> <ul style="list-style-type: none"> Class 1-3 \$200 Class 4-6 \$350 Class 7-8 \$750 Class 9-11 \$850 Class 12 \$1,000 <p>Processor</p> <ul style="list-style-type: none"> Class 1 \$250 Class 2-3 \$400 Class 4 \$800 <p>Broker</p> <ul style="list-style-type: none"> 1-99 Cases \$200 100-999 Cases \$350 1,000-2,999 Cases \$750 3,000-9,999 Cases \$850 10,000 Cases or more \$1,000 <p>Failure of a licensed dealer/wholesaler or processor to accurately report egg business during any month/quarter. \$1,000</p>
<p>§132.021(a)² §132.022² §132.024² §132.025² §15.2(a)³ §15.3³</p>	<p>Failure to be properly licensed.</p>	<p>Buying or selling eggs in Texas without first obtaining a license. \$1,500⁴</p> <p>Selling eggs with a license that is expired for a time period of one year or more. \$2,000 (penalty is in addition to any registration fee due)</p> <p>Selling eggs with a license that is expired for a time period less than one year. \$500 (penalty is in addition to any registration or late fee due)</p> <p>Failure of dealer/wholesaler or processor to obtain a separate license for each separate facility from which eggs are graded, stored, or processed. \$1,000</p>	<p>Buying or selling eggs in Texas without first obtaining a license. \$2,500⁹</p> <p>Selling eggs with a license that is expired for a time period of one year or more. \$3,000⁹ (penalty is in addition to any registration fee due)</p> <p>Selling eggs with a license that is expired for a time period less than one year. \$1,000⁹ (penalty is in addition to any registration or late fee due)</p> <p>Failure of dealer/wholesaler or processor to obtain a separate license for each separate facility from which eggs are graded, stored, or processed. \$2,000⁹</p>

§132.006(a,b) ² §132.025(b) ² §15.4 ³ §15.5(c) ³	Failure to pay required fee or out of state expenses.	Entity required to pay either 200% of required fee/out of state expenses plus \$350 ⁵ .	200% of the required fee/out of state expenses plus \$1,000 multiplied by the number of previous violations within the continuous five-year period immediately preceding the date of the current violation, not to exceed \$2,500 plus, at the department's discretion, suspension or revocation of license.
§15.11 ³	Failure to meet retail egg replacement guidelines.	\$1,000 ⁹	\$2,500 ⁹
Various	Failure to comply with any requirement of Texas Agriculture Code or department rules adopted under the authority of that chapter which is not specifically stated herein.	\$50 - \$5,000	\$50 - \$5,000 plus, at the department's discretion, suspension or revocation of license.

ⁱ The department will evaluate whether a current violation is considered to be a "subsequent offense" by consulting the continuous five-year period immediately preceding the date on which the current violation occurred, or if that date is uncertain the first date on which the violation was discovered by the department, for an order finding that a similar violation was committed by the respondent. The penalty for a subsequent offense will be assessed if the department has issued an order within the aforementioned period of time that found the respondent had committed a similar violation or that approved a no-contest plea to the same or a similar violation. The current violation occurs on the date the respondent failed to comply with the law, including a department order, or if that date is uncertain the first date on which the violation was discovered by the department. A continuous current violation that occurs during a period of consecutive days occurs on any or all days during that period and the department may use the first day, the last day, any other day, or all days of, within, or during that period for purposes of determining when the current violation occurred and the number of individual penalties to assess.

ⁱⁱ Texas Agriculture Code

ⁱⁱⁱ Texas Administrative Code

⁴ Each facility is considered a separate violation.

⁵ ~~If respondent agrees to pay the required fees or out of state expenses, the department may offer a settlement agreement reducing the penalty. Probation and deferred penalty: The respondent must sign an agreed settlement admitting the violation and establishing the two-year probation period and terms of probation. If the probation period is completed without further violation of the Texas egg laws and all other terms of the probation are met, then the penalty will be waived and the violation will not be counted as a prior violation (occurrence) for purposes of penalty enhancement. If the terms of probation are not met, the deferred penalty must be paid within 30 days after the date the department notifies the respondent that the respondent has not complied with the terms of probation. If respondent fails to comply with the terms of probation by committing another violation, as determined by a department final order, within the continuous five-year period immediately preceding the current violation or has previously violated a probation and deferred penalty agreement at any time respondent is ineligible for a probation and deferred penalty. No more than one probation and deferred penalty shall be allowed within any continuous five-year period.~~

⁶ Inedible eggs are: leakers, black rots, white rots, mixed rots, addled eggs, incubated eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring state), and any eggs made unfit for human consumption by treatment or addition of a foreign substance or one-

half of more of the shell's surface covered by a permanent black, dark purple or dark blue dye, or due to causes other than those listed in Code §132.082(a) and 4 TAC §§ 15.1(7) and 15.1(10).

⁷ Does not apply to label exemptions approved by the Texas Department of Agriculture.

⁸ For the purpose of this violation, submitted has the same meaning as received by the department.

⁹ In addition to a stop-sale of the eggs.