



FARMERS' LEGAL
ACTION GROUP,
INCORPORATED

360 North Robert Street Suite 500
Saint Paul, Minnesota 55101

Phone: 651 223.5400
Fax: 651 223.5335

Internet:
lawyers@flaginc.org

Web site:
www.flaginc.org



Legal Information for Broiler Growers

Who Decides on the Proper Equipment? Mandatory Improvements for Poultry Operations

Required improvements may affect your bottom line

Paying for unplanned improvements can have a major impact on the cash flow of your operation. It is therefore very important to understand whether your contract gives the company the power to require new investments. Even if the contract itself does not allow it, the company's ability to require improvements is also tied to the short-term nature of any single-flock contract. That is, the company can simply require that the improvements be made before any additional contracts will be offered.

What if my service representative promises me I won't have to make any improvements?

Do not rely on oral promises if you have a written contract. In general, any promises your company makes about improvements should be written into the contract if you want to be able to enforce them.

What kind of improvements might I have to make?

Some contracts list detailed expectations of growers relating to the adoption of new improvements. This includes financial responsibility on the part of the grower for maintenance, upkeep, and improvements to buildings and equipment. Improvements required in the past by some companies have included tunnel ventilation, new fans and waterers, curtain minders, and alarm systems.

What if my contract doesn't say anything about improvements?

Many contracts do not say anything about improvements. The contract may require proper buildings and equipment, without defining what is meant by "proper." As mentioned earlier, the company may also make improvements a condition of your next contract.

Can I refuse to follow the company's suggestions?

Some contracts include a clause in which the grower promises to "cooperate" with the company in adopting and installing recommended management practices and equipment. It is hard to know exactly what is meant by "cooperate." Does it mean "obey" or "work

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with?" The answer to this question is important, because if you promised to obey the company, then you must follow its suggestions. If you promised to work with the company, you may have more room to explain why you see things differently. Without a clear explanation of "cooperate," you risk violating your contract if you do not make a recommended improvement.

Other contracts use language requiring the grower to make every reasonable effort to comply with reasonable suggestions and requirements of the company. The repeated use of the word "reasonable" could give you some flexibility. If you believed an improvement suggestion was unreasonable, you could explain to the company why you felt that way. If you and the company continued to disagree, you could pursue alternative dispute resolution or a lawsuit to have an arbitrator or judge decide if the company's suggestion was reasonable. Most contracts do not include the word "reasonable," which may mean that you are committing yourself to comply with all company suggestions, even unreasonable ones.

Who pays for all of these improvements?

In most cases, you will be expected to pay for improvements. Some companies use a higher pay scale for growers who adopt certain improvements.

In a small number of contracts, the company pays for mandatory improvements, including equipment installation costs. If the contract is terminated, you may have to reimburse the company for the undepreciated cost of equipment purchased by the company.

What can I do before signing a contract to avoid future problems related to improvements?

There is no sure way to avoid conflicts about improvements with the company. Even if your contract is silent on the issue of improvements, the company would probably be free to require you to make improvements before giving you a new contract.

You or your grower association might want to negotiate before signing a contract to ensure that it addresses improvements, hopefully in a way that is favorable to you. You could seek, for example, a commitment from the company to pay for any required improvements. If the company will not pick up the entire cost, perhaps it would agree to be responsible for a certain percentage. You could also seek a higher payment scale if you adopt a certain improvement. Keep in mind that any commitment you get from a company may be subject to re-negotiation every time the contract is up for renewal.

