

### **TITLE 3. FOOD AND AGRICULTURE**

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture (Department) is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person beginning **February 22, 2013 and ending at 5 p.m. April 8, 2013.** Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407, Food and Agricultural Code, and to implement, interpret or make specific sections 9166, 9561, 9562, 9570, 9574, 18551, 18663, 18721, 18722, 18727 and 18735, of said Code, the Department proposes to make changes to sections 1300 through 1300.4 of Article 1, and sections 1300.11 through 1300.15 of Article 2, of Chapter 7, Division 2, Title 3 of the California Code of Regulations as follows:

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW/BENEFITS**

The Department proposes to amend sections 1300, 1300.1 and 1300.3, repeal sections 1300.2 and 1300.4, and amend sections 1300.11 through 1300.15 of Article 2, of Chapter 7, Division 2, Title 3 of the California Code of Regulations for the purpose of clarifying and updating existing practices and procedures within the regulations.

Existing law, section 9561 of the Food and Agricultural Code, authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this State. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

As these Code sections pertain to this proposal, the State Veterinarian may establish the requirements for importing diseased livestock into the State that could or may pose a significant risk to other animals or humans, including an introduction of harmful animal products into the human food chain. Diseased animal in this case include animals having a disease condition such as difficulty breathing or eye infections rather than animals having a contagious or infectious disease. Further, the State Veterinarian may establish procedures for the maintenance and movement of diseased animals within the State and their ultimate disposal including product uses.

The Department proposes to amend the article heading of Article 1 to better define the purpose of the article; amend section 1300 to update references to the Code of Federal Regulations; amend section 1300.1 (Permit for Transportation of Diseased Animal into California) to reflect current practices for diseased animals entering the State; repeal section 1300.2 (Verification of Shipments Under Permit) for organizational purposes; amend section 1300.3 (Violations) and repeal section 1300.4 (Revocation of Permit) for technical and organizational purposes. Additionally the Department, in Article 2, proposes to amend section 1300.11 (Receipt of Shipment), section 1300.12 (Sale or Disposal), section 1300.13 (Permit for Transfer or Sale of Livestock Manifesting Disease), section 1300.14 (Retention of Documents), and section 1300.15 (Violations) to establish clarity and conformity with current practices and for technical and organizational consistency.

Based on an initial evaluation, the Department does not believe that the proposed regulations are inconsistent or incompatible with existing state or federal regulations. The United State Department of Agriculture (USDA) maintains requirements for the interstate movement of diseased animals and poultry within the Code of Federal Regulations at Title 9, Part 71.3. The Department's proposed regulations are supplementary to the federal interstate movement requirement.

## **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 et seq. Require Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action will not have any significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the fact that the proposed regulation does not impose new requirements on California or out of state livestock owners and handlers who import animals into the State that may have a diseased condition as specified. The intent of this proposal is to update and clarify existing regulations to current industry practices. The anticipated compliance requirements are as follows:

- **Records:** Section 1300.14 requires the maintenance of records for a minimum of two (2) years for animals manifesting disease which include any permits for movement, sale records, and records of disposal. The Department believes this requirement does not adversely affect businesses or small businesses engaged in livestock marketing in California. The Department believes the two-year requirement is necessary and is reasonable as any needed investigation into a livestock disease or food-related outbreak would require inquiry into records maintained up to, but no longer than, the period of two (2)

years. This requirement is not anticipated to incur increased costs to businesses as record keeping is a standard business practice for persons marketing or maintaining livestock in California. The maintenance of records will assist the Department in ensuring only safe and wholesome products are maintained and marketed in California.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or businesses would necessarily incur in reasonable compliance with the proposed action.

This proposal does not impose new requirements on California or out of state livestock owners and handlers who import animals into the State that may have a diseased condition as specified. The intent of this proposal is to update and clarify existing regulations to current industry practices. The anticipated compliance requirements are as follows:

- Records: Section 1300.14 requires the maintenance of records for a minimum of two (2) years for animals manifesting disease which include any permits for movement, sale records, and records of disposal. The Department believes this requirement does not adversely affect businesses or small businesses engaged in livestock marketing in California. The Department believes the two-year requirement is necessary and is reasonable as any needed investigation into a livestock disease or food-related outbreak would require inquiry into records maintained up to, but no longer than, the period of two (2) years. This requirement is not anticipated to incur increased costs to businesses as record keeping is a standard business practice for persons marketing or maintaining livestock in California. The maintenance of records will assist the Department in ensuring only safe and wholesome products are maintained and marketed in California.

In making these determinations the Department has not considered alternatives that would lessen any adverse economic impact on businesses and invites the public to submit such proposals during the written comment period. Submissions may include the following considerations:

- The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- The consolidation or simplification of compliance and reporting requirements for businesses.
- The use of performance standards rather than prescriptive standards.
- Exemption or partial exemption from the regulatory requirements for businesses.

Effect on Housing Costs: None

## **RESULTS OF ECONOMIC IMPACT ASSESSMENT**

The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses,

including the ability of California businesses to compete with businesses in other states. This initial determination is based on the fact that the proposed regulation does not impose new requirements on California or out of state livestock owners and handlers who import animals into the State that may have a diseased condition as specified. The intent of this proposal is to update, clarify and conform existing regulations to current industry practices.

As part of its Economic Impact Assessment, the Department has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, that it will not create or eliminate jobs or occupations, and the proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services. The Department's proposal does not impact multiple industries.

#### Benefits of the Proposed Regulation:

The purpose of the proposed regulatory change is to update existing regulations for the importation of diseased animals into California. The benefit of this change is to provide the public with clear, accurate information as to the requirements for the importation of diseased animals.

Benefits to the health and welfare of California residents, worker safety, and the State's environment include establishing requirements for importing diseased livestock into California could or may pose a significant risk to other animals or humans, including an introduction of harmful animal products into the human food chain. Further, this proposal allows the State Veterinarian to establish procedures for the maintenance and movement of diseased animals within the State and their ultimate disposal including product uses.

This proposal also requires the maintenance of livestock movement records for a minimum of two (2) years for animals manifesting disease. The Department believes requiring persons importing or moving diseased animals to maintain records is an additional benefit to the public because it enables the Department to investigate and subsequently trace potential sources of livestock disease or food-related outbreaks.

Small Businesses: The Department's proposal may affect small businesses; however the Department does not have nor does it maintain data to determine if any California livestock owners or handlers, or out of state livestock owners or handlers are "small businesses" as defined in Government Code Section 11342.610.

Occupations/Businesses Impacted: The Department has made an initial determination that this regulatory proposal will impact California livestock owners and handlers, and out of state livestock owners and handlers when moving diseased livestock into and within California. From January 1, 2011 through December 31, 2011, the public imported into California nearly 3.9 million "livestock" as defined by Food and Agricultural Code; of this number, the Department did not issue any permits as required by section 1300.1, however, some livestock may have entered the State with a permit issued by the USDA pursuant to section 1300. The Department does not maintain information to identify the number of separate owners represented by the number of livestock imported. Although the public importing livestock into California will be required to comply, the proposed regulation does not impose new requirements on these businesses; rather it updates and clarifies the practices and processes required.

Business Reporting Requirement: The regulation does not require a report, which shall apply to businesses.

Comparable Federal Regulations: The United State Department of Agriculture (USDA) maintains requirements for the interstate movement of diseased animals and poultry within the Code of Federal Regulations at Title 9, Part 71.3. The Department's proposed regulations are supplementary to the federal interstate movement requirement.

Documents Incorporated by Reference: None.

Documents Relied Upon in Preparing Regulations: Economic Impact Assessment

## **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Department has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department of Food and Agriculture's website as indicated below in this Notice.

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below. Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

## **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations, or any written comments concerning this proposal are to be addressed to the following:

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The backup contact person is:

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Website Access: Materials regarding this proposal can be found by accessing the following Internet address: <http://www.cdfa.ca.gov/ahfss/regulations.html>