

TITLE 3. FOOD AND AGRICULTURE
INFORMAL HEARINGS PROPOSED REGULATIONS
SECOND 15-DAY NOTICE OF MODIFIED TEXT AND
DOCUMENT ADDED TO THE RULEMAKING FILE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department), Animal Health and Food Safety Services, is proposing to change the modified regulation text for sections 1310, 1310.1, 1310.2, 1310.3, and 1310.4 of Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations. The proposal pertains to the action described in the Informative Digest published in the *California Regulatory Notice Register* on August 30, 2019 [Notice File No. Z2019-0820-01, Register 2019, No. 35-Z], relating to the Department's informal hearing process. The Department is now providing notice of additional modifications to the regulation text to make clarifying and organizational changes. A copy of the second modified text is enclosed.

NOTICE IS HEREBY GIVEN of the following document added to the rulemaking file pursuant to Government Code sections 11346.8(d) and 11347.1: "Second Addendum to the Initial Statement of Reasons" to provide the rationale for the second modified text and to clarify specified changes to the regulation text. The document pertains to the regulatory action as described above [*California Regulatory Notice Register* on August 30, 2019, Notice File No. Z2019-0820-01, Register 2019, No. 35-Z].

Written comments regarding the original proposal: The written comments received by the Department for this proposal during the initial 45-day public notification period which began on August 30, 2019 and ended on October 15, 2019, remain in the Department's rulemaking file. Written comments received during the first 15-day comment period pertaining to modifications to the text and document added to the rulemaking file, beginning April 8, 2020 and ending April 23, 2020, remain in the Department's rulemaking file.

Written comments regarding the second modified text and the second document added to the rulemaking file: If any person wishes to comment on the proposed modifications to the text or to the document added to the rulemaking file, the written comment must be submitted to the contact person named in this notice beginning **November 2, 2020**. The written comments are to be restricted to the recent modifications as shown in the attached regulatory text and/or to the document added to the rulemaking file. The Department is not required to respond to comments received in response to this notice on other aspects of the proposal. All written comments received by **November 16, 2020**, which pertain to the indicated changes will be reviewed and responded to by Departmental staff as part of the compilation of the rulemaking file.

Contact Persons: Written comments concerning this proposal are to be addressed to the following:

Thamarah Rodgers, Associate Analyst
Department of Food and Agriculture
Animal Health & Food Safety Services
1220 N Street, Sacramento, CA 95814
E-mail: thamarah.rodgers@cdfa.ca.gov

The backup contact person is:

Kimberly McCarthy, Manager
Department of Food and Agriculture
Animal Health and Food Safety Services
1220 N Street, Sacramento, CA 95814
E-mail: kimberly.mccarthy@cdfa.ca.gov

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

Dated: October 30, 2020

DEPARTMENT OF FOOD AND AGRICULTURE
Animal Health and Food Safety Services
SECOND ADDENDUM TO THE INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation

Informal Hearings

Sections Affected for Modified Text

Sections 1310, 1310.1, 1310.2, 1310.3, and 1310.4.

Statement of Factual Basis and Rationale

The Department originally noticed this proposal for a 45-day public comment period which ended on October 15, 2019. The Department published modified text and added to the rulemaking file an Addendum to the Initial Statement of Reasons which was noticed to the public for a 15-day written comment period that closed on April 23, 2020. The Department is now publishing a second modified text for 15 days along with this Second Addendum to the Initial Statement of Reasons.

Section 1310. Scope of Coverage.

Note portion: The Department is revising the reference citations to expand the stated applicable Divisions/Chapters to instead specify individual Food and Agricultural Code sections that pertain to the regulation section.

Section 1310.1. Filing Deadlines and Procedures.

Note portion: The Department is revising the reference citations to expand the stated applicable Divisions/Chapters to instead specify individual Government Code sections that pertain to the regulation section.

Section 1310.2. Informal Hearing Schedule and Notification.

Note portion: The Department is revising the reference citations to expand the stated applicable Divisions/Chapters to instead specify individual Government Code sections that pertain to the regulation section.

Section 1310.3. Conduct of Informal Hearings.

Subsections (a), (b), and (e) The Department is making nonsubstantive capitalization revisions to align the text with the Initial Statement of Reasons, Addendum to the Initial Statement of Reasons, and Second Addendum to the Initial Statement of Reasons.

Note portion: The Department is revising the reference citations to expand the stated applicable Divisions/Chapters to instead specify individual Government Code sections that pertain to the regulation section.

Section 1310.4. Violations Involving the Holding of Animals or Animal Products.

As originally noticed, information in new section 1310.4 was included in prior sections of the informal hearing regulations and moved to this new section to address the holding of animals and animal products within one section of the regulations for ease of reference. Any enforcement actions involving live animals must be adjudicated in a timely manner if the health of animals may be a factor. Likewise, with any perishable products such as milk and dairy products, time is of the essence in enforcement matters or the products will need to be disposed of in a safe and sanitary manner.

The Addendum to the Initial Statement of Reasons for the modified text stated in section 1310.4, "The intent of these informal hearing regulations is for alleged violations that do not involve a quarantine but may involve hold orders dealing with loss or theft of cattle and determining ownership." This statement supported by added Food and Agricultural Code reference citations appears to limit the scope of the section to only violations dealing with loss or theft of cattle and determining ownership which is not the original intent of the section and therefore not an accurate statement. Therefore, the Department is clarifying in this Second Addendum to the Initial Statement of Reasons that the intent of the section is for alleged violations that may involve hold orders, sometimes referred to as seizures, dealing with live animals or potentially perishable animal products and would therefore require an expedited hearing to avoid undue harm to animals or loss of animal product.

Note portion: The Department is revising the reference citations to expand the stated applicable Divisions/Chapters to instead specify individual Food and Agricultural and Government Code sections that pertain to the regulation section. Additionally, the Department is revising the reference citations to clarify those provisions that may involve the holding of live animals or perishable animal products and which an expedited informal hearing would be warranted.

**DEPARTMENT OF FOOD AND AGRICULTURE
Animal Health and Food Safety Services
PROPOSED REGULATIONS – INFORMAL HEARINGS
SECOND MODIFIED TEXT**

LEGEND FOR SECOND MODIFIED TEXT

Added text is shown in *double underline and italics*.
Deleted text is shown in ~~double-strikeout and bold~~.

Text shown in double underline for added text and ~~double-strikeout~~ for deleted text was the modified text noticed to the public for a 15-day written comment period that closed on April 23, 2020.

Text shown in single underline for added text and ~~single-strikeout~~ for deleted text was originally noticed to the public for a 45-day written comment period that closed on October 15, 2019.

Any written comments must address only the second modified text.

The Department of Food and Agriculture, Animal Health and Food Safety Services, proposes to adopt the changes to the informal hearing regulatory requirements under Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations, as specified below.

1) Amend sections 1310, 1310.1, 1310.2, and 1310.3 of Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1310. Scope of Coverage.

(a) ~~Any person~~ A respondent, or his or her duly authorized representative, may contest a notice of adverse determination ~~and request~~ by requesting an informal hearing as outlined in this article.

(b) The informal hearing proceedings outlined in this article pertain to a violation of any of the following sections of the Food and Agricultural Code or any regulations implemented thereto, including proceedings related to any license, registration, permit, or certificate issued by the Department:

(1) ~~Importation requirements for horses or other Equidae pursuant to section 9641.5.~~

~~(2) Brucellosis vaccination requirements pursuant to sections 10341, 10342 and Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5.~~

~~(3) Importation requirements for cattle pursuant to section 10610.~~

~~(4) Importation requirements for swine pursuant to section 10721.~~

~~(5) Approved processing or disposal of garbage aboard any vessel or aircraft in the state pursuant to sections 16101, 16151, 16152, 16153 and 16154.~~

~~(6) Requirements for animals at large pursuant to section 16441 including but not limited to, pedigree and proof of ownership requirements pursuant to sections 16501, 16521, 16524, and 16525.~~

~~(7) Requirements for the transportation of animals pursuant to sections 16901, 16902, 16903, 16905, and 16908.~~

~~(8) Requirements for estrays pursuant to sections 17042, 17043, 17045, 17061, 17062, 17092, 17121, and 17122.~~

~~(9) Unlawful marking and branding requirements pursuant to sections 17551, 17552 and 17553.~~

~~(10) Requirements for processing inspectors pursuant to sections 18982, 18983, 18991, 19001 and 19002.~~

~~(11) Requirements pertaining to transporters of inedible kitchen grease pursuant to sections 19310, 19310.5, 19310.7, 19311, 19312, 19313, 19313.1, 19313.5, 19314, 19315, 19316, and 19317.~~

~~(12) Unrecorded, forfeited, or canceled brands requirements pursuant to section 20222.~~

~~(13) Requirements for enforcement of brand registration pursuant to sections 20604, 20605, 20606, and 20607.~~

~~(14) Requirements for cattle record brands pursuant to sections 20904 and 20906.~~

~~(15) Requirements for the inspection of cattle pursuant to sections 21051.5, 21052, 21058, 21060.7, 21062, 21064, 21066, 21081, 21082, 21172, 21173, 21174, 21175, 21204, 21205, 21208, 21231, 21232, 21236, 21237, 21238, 21281, 21281.5, 21282, 21283, 21283.5, 21285, 21288, and 21288.5.~~

~~(16) Requirements for the inspection of hides and carcasses pursuant to sections 21455, 21456, 21457, 21458, and 21459.~~

~~(17) Requirements for the sale and gift of cattle and their carcasses and hides pursuant to sections 21702, 21702.1, 21703, 21705, 21707, 21708, 21709 and 21710.~~

~~(18) Requirements relating to the slaughter of cattle pursuant to section 22001, 22006, 22008, 22009 and 22010.~~

~~(19) Requirements for brands and brand records pursuant to section 23251.~~

~~(20) Requirements for the sale or gift of an animal hide or carcass pursuant to section 23801.~~

~~(21) Requirements for the transportation of sheep pursuant to section 23981.~~

~~(22) Control of performance and disposition enhancing medications for horses in public horse shows, events, competitions, or sales pursuant to Chapter 8 (commencing with section 24000), Division 11.~~

~~(23) Inspection and sampling of milk, milk products, and products resembling milk pursuant to Article 2 (commencing with section 32731), Chapter 2, Part 1, Division 15.~~

~~(24) Testing of milk and milk products for the presence of drug residues pursuant to Article 4 (commencing with section 32761), Chapter 2, Part 1, Division 15.~~

(1) Division 5, Animal and Poultry Quarantine and Pest Control (commencing with section 9101) of the Food and Agricultural Code, excluding sections 9163, 9165, 9167, 9168, 9212, 9242, 9562, 9564, 9574, 9701, 9943, 9976, 9977, 10355, 10381, 10384, 10385, 10493, 10610(c)(1), 10782, 10783, 10784, and 10786(b)(1); Article 7 (commencing with section 9261) of Chapter 1.5 of Part 1; Article 2 (commencing with section 9331) of Chapter 2 of Part 1; and Chapter 2 (commencing with section 10901) of Part 3 of Division 5 of the Food and Agricultural Code.

(2) Division 8, Vessel and Aircraft Garbage (commencing with section 16001) of the Food and Agricultural Code.

(3) Part 3, Slaughtered Animals (commencing with section 18201) of Division 9 of the Food and Agricultural Code, excluding sections 18221, 19242, 19262, 19282, and 19322; Chapter 4 (commencing with section 18650); Chapter 4.1 (commencing with section 18940); Chapter 4.5 (commencing with section 19051); Article 2 (commencing with section 19220), Article 6 (commencing with section 19300), Article 6.5 (commencing with section 19310), and Article 13 (commencing with section 19440) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural

Code.

(4) Division 10, Cattle Protection (commencing with section 20001) of the Food and Agricultural Code, excluding sections 20791, 20792, 20793, 20794, 20795, and 20796; Article 4 (commencing with section 20221), Article 5 (commencing with section 20251), and Article 6 (commencing with section 20281) of Chapter 2; Article 2 (commencing with section 20432) of Chapter 3; and Article 1 (commencing with section 21851) of Chapter 9 of Division 10 of the Food and Agricultural Code.

(5) Chapter 8, Drugging of Horses (commencing with section 24000) of Division 11 of the Food and Agricultural Code, excluding section 24007(a).

(6) Division 12, Poultry, Rabbits, Eggs, and Egg Products (commencing with section 24501) of the Food and Agricultural Code, excluding sections 24541, 24750, 24751, 25061, 25062, 26441, 26681, and 26981; Article 2 (commencing with section 24681) of Chapter 2 of Part 1; Article 2 (commencing with section 24991) of Chapter 3 of Part 1; Chapter 2 (commencing with section 25551) of Part 2; and Part 4 (commencing with section 27501) of the Food and Agricultural Code.

(7) Division 15, Milk and Milk Products Act of 1947 (commencing with section 32501) of the Food and Agricultural Code, excluding sections 32811, 32812, 32813, 33297, and 35193; Article 1 (commencing with section 32701) of Chapter 2 of Part 1; Article 4 (commencing with section 33141) and Article 8 (commencing with section 33251) of Chapter 4 of Part 1; Article 1 (commencing with section 35281) of Chapter 13 of Part 1; Article 7 (commencing with section 35921) of Chapter 2 of Part 2; Article 2 (commencing with section 36631) of Chapter 1 of Part 3; Article 6 (commencing with section 37261) of Chapter 3 of Part 3; and Article 9 (commencing with section 38991) of Chapter 6 of Part 3 of Division 15 of the Food and Agricultural Code.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: ~~Sections 9166, 9641.5, 10341, 10342, 10610, 10721, 16101, 16151, 16152, 16153, 16154, 16441, 16501, 16521, 16524, 16525, 16901, 16902, 16903, 16905, 16908, 17042, 17043, 17045, 17061, 17062, 17092, 17121, 17122, 17551, 17552, 17553, 17951, 18982, 18983, 18991, 19001, 19002, 19310, 19310.5, 19310.7, 19311, 19312, 19313, 19313.1, 19313.5, 19314, 19315, 19316, 19317, 20222, 20251, 20604, 20605, 20606, 20607, 20904, 20906, 21051.5, 21052, 21058, 21060.7, 21062, 21064, 21066, 21081, 21082, 21172, 21173, 21174, 21175, 21204, 21205, 21208, 21231, 21232, 21236, 21237, 21238, 21281, 21281.5, 21282, 21283, 21283.5, 21285, 21288, 21288.5, 21455, 21456, 21457, 21458, 21459, 21702,~~

21702.1, 21703, 21705, 21707, 21708, 21709, 21710, 22001, 22006, 22008, 22009, 22010, 23251, 23801, 23981, and 24007, Food and Agricultural Code; and Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5, Food and Agricultural Code; Chapter 8 (commencing with section 24000), Division 11, Food and Agricultural Code; Article 2 (commencing with section 32731), Chapter 2, Part 1, Division 15, Food and Agricultural Code; and Article 4 (commencing with section 32761), Chapter 2, Part 1, Division 15, Food and Agricultural Code Division 5 (commencing with section 9101), Division 8 (commencing with section 16001), Part 3 Division 9 (commencing with section 18201) of Division 9, Division 10 (commencing with section 20001), Chapter 8 Division 11 (commencing with section 24000) of Division 11, Division 12 (commencing with section 24501), and Division 15 (commencing with section 32501), Sections 9101, 9143, 9161, 9164, 9166, 9169, 9185, 9210, 9211, 9241, 9301, 9303, 9305, 9351, 9352, 9641.5, 9931, 9941, 9942, 9944, 9972, 9973, 9975, 9979, 9980, 9981, 9982, 10006, 10007, 10151, 10152, 10322, 10325, 10342, 10351, 10352, 10353, 10354, 10357, 10358, 10359, 10383, 10387, 10492, 10494, 10495, 10496, 10721, 10722, 10723, 10724, 10725, 10726, 10751, 10752, 10753, 10786(a), 16101, 16151, 16152, 16153, 16154, 18381, 19240, 19260, 19280, 19320, 19340, 19342, 19343, 19346, 19348, 19348.5, 19350, 19352, 19354, 19355, 19356, 19357, 19358, 19360, 19362, 19363, 19364, 19365, 19366, 19403, 19404, 19501, 20203, 20604, 20605, 20606, 20607, 20633, 21051.3, 21051.4, 21051.6, 21052, 21058, 21060.7, 21062, 21064, 21066, 21172.5, 21173, 21174, 21175, 21201, 21204, 21205, 21208, 21232, 21236, 21237, 21238, 21455, 21456, 21457, 21458, 21459, 21482, 21531, 21702, 21702.1, 21705, 21707, 21708, 21709, 21710, 21733, 21744, 21745, 21748, 21749, 21751, 21886, 22001, 22001.5, 22004, 22004.1, 22006, 22008, 22010, 22037, 22044, 22045, 22046, 22047, 22049, 24004, 24006, 24007, 24009, 24010, 24011, 24011.6, 24012, 24015, 24741, 24771, 24772, 24802, 25051, 25091, 25092, 25093, 25094, 25095, 25122, 25123, 25126, 25127, 25128, 25151, 26001, 26002, 26004, 26005, 26006, 26008, 32731, 32733, 32734, 32741, 32742, 32814, 32901, 32902, 32903, 32903.5, 32906, 32907, 32909, 32910, 32911, 32912.5, 32913, 32914, 32915, 32916, 32917, 32918, 32920, 33227, 33351, 33452, 33486, 33512, 33513, 33514, 33515, 33516, 33517, 33518, 33519, 33520, 33521, 33522, 33523, 33524,

33525, 33526, 33527, 33528, 33529, 33530, 33551, 33701, 33704, 33704.8, 33705,
33731, 33732, 33733, 33734, 33761, 33762, 33763, 33764, 33765, 33766, 33766.5,
33767, 33768, 33769, 33770, 33771, 33772, 33773, 33774, 33775, 33776, 33777,
33778, 33779, 33780, 33781, 34001, 34001.5, 34004, 34005, 34006, 34007, 34008,
34031, 34032, 34061, 34062, 34063, 34064, 34065, 34091, 34201, 34231, 34591,
34592, 34593, 34594, 34595, 34621, 34622, 34623, 34624, 34625, 34626, 34627,
34628, 34651, 34652, 34653, 34654, 34655, 34801, 34802, 34803, 34804, 34806,
34981, 35011, 35016, 35041, 35071, 35101, 35131, 35132, 35134, 35161, 35163,
35166, 35167, 35168, 35169, 35601, 35602, 35603, 35631, 35751, 35755, 35757,
35781, 35781.5, 35782, 35783, 35783.1, 35784, 35784.1, 35785, 35786, 35788, 35811,
35831, 35832, 35833, 35834, 35861, 35862, 35863, 35891, 35892, 35893, 35941,
35943, 35944, 35945, 35971, 36001, 36002, 36004, 36005, 36031, 36032, 36033,
36061, 36062, 36063, 36064, 36065, 36091, 36092, 36123, 36301, 36302, 36303,
36306, 36331, 36602, 36605, 36671, 36673, 36674, 36801, 36802, 36803, 36804,
36805, 36808, 36809, 36861, 36951, 36952, 36981, 36982, 36983, 36984, 36991,
36992, 37102, 37103, 37131, 37134, 37162, 37164, 37191, 37192, 37221, 37222,
37223, 37292, 37401, 37504, 37505, 37601, 38181, 38182, 38183, 38184, 38185,
38191, 38192, 38211, 38213, 38221, 38222, 38224, 38231, 38251, 38252, 38253,
38261, 38361, 38391, 38392, 38393, 38394, 38395, 38396, 38397, 38400, 38401,
38421, 38451, 38452, 38454, 38455, 38511, 38512, 38522, 38531, 38542, 38601,
38602, 38632, 38651, 38652, 38653, 38654, 38655, 38671, 38701, 38702, 38703,
38731, 38732, 38761, 38871, 38872, 38873, 38874, 38875, 38876,
38881, 38885, 38886, 38887, 38888, 38892, 38895.1, 38895.2, 38904, 38905, 38925,
38926, 38926.5, 38931, 38936, 38937, 38941, 38944, 38945, 38951, 38952, 38952.5,
38954, 38955, 38956, 38971, 39151, 39153, 39352, 39353, 39382, 39411,
39431, 39432, 39502, 39702, 39712, 39713, 39714, 39715, 39721, 39722, 39723,
39731, 39732, 39733, 39741, 39742, 39751, 39752, 39761, 39762, 39771, 39781,
39782, 39791, 39792, 39801, 39802, 39811, 39812, 39821, 39822, 39831, 39832,
39833, 39841, 39842, 39901, 39902, 39903, 39906, 39907, 39908, 39909, 39910,
39911, and 39912, Food and Agricultural Code.

Section 1310.1. Filing Deadlines and Procedures.

(a) The respondent may contest a notice of adverse determination for any violation specified in section 1310 and may request an informal hearing by written correspondence to the California Department of Food and Agriculture, Legal Office of Hearings and Appeals, 1220 "N" Street, Suite ~~400~~ 315, Sacramento, California 95814.

(b) The respondent ~~must~~ shall submit a request for an informal hearing to the Department's Legal Office of Hearings and Appeals in writing, within 30 days from the date of receipt of the notice of adverse determination. ~~If the notice of adverse determination requires the holding of animals or animal products at a site specified, the respondent must submit the request by mail, facsimile, or by telephone within 72 hours of the date of the notice of adverse determination.~~

~~(c) The respondent may request a formal hearing in lieu of an informal one. The respondent must do so within the filing deadlines for requesting an informal hearing set forth in subsection (b). Any request must be accompanied by a written statement in support of it. The hearing officer shall determine whether to proceed with an informal hearing or whether a formal hearing or other appropriate administrative proceeding may be required by statute pursuant to Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code. The respondent will be expected to waive the time constraints of this article on the record if any administrative proceeding other than an informal hearing is requested by respondent or required by the Department. Any request for an informal hearing shall include a copy of the notice of adverse determination and may state the grounds for the appeal.~~

(d) Any objection to the Department's selection of the informal hearing procedure shall be made in writing to the Legal Office of Hearings and Appeals and shall be resolved by the Hearing Officer prior to the hearing pursuant to Government Code section 11445.30.

~~(d)~~ (e) Failure to ~~present~~ submit a timely request for a hearing constitutes a waiver of the respondent's right to contest the notice of an adverse determination. Untimely requests for a hearing shall ~~may~~ shall be denied by the Department absent good cause.

~~(e) If the notice of adverse determination places a hold on a product or animal, or requires a person to cease operations, the notice of adverse determination shall remain in effect pending the outcome of the informal hearing.~~

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: ~~Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2, Government Code **Article 10 (commencing with section 11445.10), Chapter 4.5** (commencing with section 11400); and Chapter 5 (commencing with section 11500), **Part 1, Division 3, Title 2** Sections 11445.10, 11445.20 and 11445.30, Government Code.~~

Section 1310.2. Informal Hearing Schedule and Notification.

~~(a) Supplemental to any procedures set forth in Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2, Government Code, tThe Department shall schedule an informal hearing within 30 days from the receipt of the request from the respondent. If the notice of adverse determination requires the holding of animals or animal products at a site specified, the Department shall schedule the hearing within 72 hours of the receipt of the request for an informal hearing.~~

~~(b) Formal hearings shall be scheduled by the Department consistent with the provisions of Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code, and any applicable regulations enacted pursuant to these provisions.~~

~~(c) (b) At least 10 business days prior to the informal hearing, Tthe Department shall provide a notice of the informal hearing to the respondent containing all of the following information:~~

- ~~(1) Date, location, and time of the informal hearing;~~
- ~~(2) Departmental contact information including applicable telephone and facsimile numbers; and~~
- ~~(3) Subject matter of the adverse determination; and,~~
- ~~(4) Any other information or documentation relative to the adverse determination.~~

~~(c) The notice of an informal hearing shall be sent to the address of the person charged as provided by any application, license, registration, certification, or permit on~~

record with the Department and/or as provided by a driver's license record obtained from the Department of Motor Vehicles.

(d) A notice that is sent pursuant to subsection (c) shall be considered effective even if delivery is refused or if the notice is not accepted at that address.

(e) Any documents to be considered by the ~~h~~Hearing ~~e~~Officer shall be received by the Legal Office of Hearings and Appeals at least three business days prior to the scheduled informal hearing ~~at the Legal Office of Hearings and Appeals.~~ Any documents not timely submitted may be considered at the discretion of the Hearing Officer.

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: ~~Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2, Government Code **Article 10 (commencing with section 11445.10), Chapter 4.5** (commencing with section 11400); and Chapter 5 (commencing with section 11500), **Part 1, Division 3, Title 2** Sections 11445.10, 11445.20 and 11445.30, Government Code.~~

Section 1310.3. Conduct of Informal Hearings.

~~(a) If a formal hearing is requested by the respondent or otherwise required by statute or regulation, it shall be conducted consistent with the provisions of Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code.~~

~~(b) Informal hearings shall be conducted pursuant to Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2 of the Government Code and shall be conducted as follows:~~

~~(1) (a) The informal hearing shall be presided over and conducted by a ~~h~~Hearing ~~e~~Officer designated by the ~~Department~~ Secretary.~~

~~(2) (b) The standard of proof to be applied by the ~~h~~Hearing ~~e~~Officer shall be preponderance of the evidence unless statutes or regulations applicable to the determination provide a higher standard.~~

~~(3) (c) Hearings may be conducted by telephone at the discretion of the hearing officer subject to Government Code section 11440.30. A teleconference line shall be made available at every hearing.~~

~~(d) Hearings shall be recorded by the Department. A transcript of the recording or an electronic copy of the recording shall be provided to any interested party upon written request.~~

~~(4) (e) Subject to the provisions of Government Code section 11425.50, the decision of the hearing officer shall be in writing, with a brief statement of the conclusion and findings to support the conclusion. The decision may be handwritten issued within 30 days after the conclusion of the hearing, and shall be effective immediately upon issuance.~~

~~(5) The decision shall be issued within 14 days after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.~~

~~(6) The decision shall be served on the respondent either by personal service or, if available, by facsimile transmission.~~

~~(f) The decision shall be served on the respondent by the U.S. Mail or, if available, by electronic mail.~~

~~(7) The hearing officer's decision shall be effective immediately upon first articulation under subsection (b)(4) or (b)(5) above, and shall be final.~~

~~(8) ~~(f)~~ (g) The respondent may appeal the hearing officer's decision and order by filing a petition for a writ of administrative mandamus in accordance with the provisions of the Code of Civil Procedure subject to the statutes relating to the Department section 1094.5.~~

~~(9) The Department shall provide a copy of the decision to any interested party upon written request.~~

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Chapter 4.5 (commencing with section 11400), Part 1, Division 3, Title 2, Government Code ~~Article 10 (commencing with section 11445.10), Chapter 4.5 (commencing with section 11400); and Chapter 5 (commencing~~

~~with section 11500), Part 1, Division 3, Title 2 Sections 11445.40, 11445.50 and 11445.60, Government Code.~~

2) Adopt section 1310.4 of Article 1, Chapter 9, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1310.4. Violations Involving the Holding of Animals or Animal Products.

(a) A respondent may contest a notice of adverse determination that places a hold on an ~~product or animal or animal product, or requires a person to cease business operations.~~

(b) The request for an informal hearing shall be submitted to the Department by electronic mail, facsimile, or by telephone within three business days from the date of receipt of the notice of adverse determination.

(c) The notice of adverse determination shall remain in effect pending the outcome of the informal hearing.

(d) Hearings conducted under this section shall be held within three business days after the Department receives the request for an informal hearing.

(e) Informal hearings ~~procedures~~ conducted under this section shall be held in accordance with section 1310.3 ~~above.~~

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: Sections ~~9562 and 9570, 16521, 17001.5, 17042, 18973, 20438, and 23043, 32761, 32764, 32765, 32766 and 32767, Food and Agricultural Code; Article 10 (commencing with section 11445.10), Chapter 4.5 (commencing with section 11400); and Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 Sections 11445.30, 11445.40, 11445.50 and 11445.60, Government Code.~~