

TITLE 3. FOOD AND AGRICULTURE

ADMINISTRATIVE PENALTY SCHEDULES

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (herein after referred to as “Department”) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

A public hearing is scheduled starting at 2:00 p.m., Wednesday May 12, 2021 via Zoom teleconference. Based on guidance from the California Department of Public Health, a physical location will not be provided. Members of the public are encouraged to participate using the Zoom teleconference phone number provided below, so as to minimize the spread of COVID-19. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the Informative Digest.

To participate in the hearing, dial +1 669 900 6833 (toll free), enter meeting ID: 913 4335 6572 and Passcode: 0347116985 when prompted.

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 March 26, 2021 and ending on May 10, 2021**. Following the public hearing, the Department, upon its own motion or at the request 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 the 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 section 407, Food and Agricultural Code (FAC), and to implement, interpret, or make specific sections 9166 and 10786(a)(1), the Department is proposing to adopt section 839 under Article 14, of Chapter 2, Division 2, Title 3 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, section 11342.2 of the Government Code section, allows state agencies to adopt regulations that are reasonably necessary to effectuate the purpose of a statute, based on implied authority within that governing statute.

Existing law, section 407 of the Food and Agricultural Code, provides that the Secretary of the Department of Food and Agriculture (Department) may adopt such regulations as are reasonably necessary to carry out the provisions of the code which she is directed or authorized to administer or enforce.

Existing law, Chapter 1.5 (commencing with section 9201), of Part 1, Division 5 of the Food and Agricultural Code authorizes the secretary to impose such conditions on the production or use of

blood or blood component products as is deemed necessary to accomplish the purposed of Chapter 1.5 for Commercial Blood Banks for Animals and Biologics.

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 of the Food and Agricultural Code 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.

Existing law, sections 10324, 10326, 10327 and 10386 of Food and Agricultural Code authorize the adoption of regulations for the control and prevention of bovine brucellosis through limitations of movement, tests, vaccinations, or reports and records or other means as determined.

Existing law, section 10610, of the Food and Agricultural Code authorizes the Secretary of the Department to adopt regulations to control and eradicate cattle diseases through limitations on intrastate and interstate movement, and by requiring permits, diagnostic testing, vaccinations, or other appropriate methods of treatment and control.

Existing law, Chapter 2 (commencing with section 10901), of Part 3, Division 5 of the Food and Agricultural Code authorizes the director to make and enforce such regulations as are reasonable and necessary to carry out the provisions of Chapter 2 for Garbage Control in order to prevent the spread of vesicular exanthema and other contagious and infectious swine diseases.

Existing law, section 9166 of the Food and Agricultural Code authorizes any person who violates any provision of Division 5 (commencing with section 9101) of the Food and Agricultural Code, and any regulations adopted pursuant to Division 5, is subject to an administrative penalty of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) for each violation. Each violation during any day constitutes a separate offense. Any money that is recovered under this section shall be paid into the State Treasury and shall be credited to the Department of Food and Agriculture Fund.

Existing regulations under Chapter 2 (Livestock Disease Control [Animal Quarantine]) (commencing with section 751), of Division 2 (Animal Industry), Title 3 of the California Code of Regulations, specify the requirements for livestock disease control and eradication, and traceability implemented through official identification, documentation, vaccination, and diagnostic testing for animals moving interstate and intrastate and were adopted pursuant to Division 5 of the Food and Agricultural Code.

Existing Articles 3 and 3.5, et seq. (commencing with section 760), of Chapter 2, Division 2, Title 3 of the California Code of Regulations, sets forth the requirements for the movement of sheep and goats into and within the state to prevent the introduction and spread of sheep scabies and scrapie diseases in California. These regulations were adopted pursuant to Division 5 section 9561 of the Food and Agricultural Code, by placing restrictions at the border on sheep and goat movement, it prevents animals that do not meet the requirements for disease free verification,

from introducing or spreading diseases determined to be a risk to animal or the health and safety of the public.

Existing Article 13 (commencing with section 821), of Chapter 2, Division 2, Title 3 of the California Code of Regulations sets forth the requirements for the interstate movement of poultry. These regulations were adopted pursuant to Division 5 section 9561 of the Food and Agricultural Code, in that by placing restrictions at the border it prevents poultry that do not meet the requirements for disease free verification, from spreading or introducing diseases determined to be a risk to animal or the health and safety of the public

Additionally, Chapter 7 (Restricted Animals) (commencing with section 1300), of Division 2, Title 3 of the California Code of Regulations, establishes regulations for the transportation, sale and disposal of restricted or diseased animals and for the establishment of a quarantine on a premises and were adopted pursuant to Division 5 of the Food and Agricultural Code.

Existing law, section 10786(a)(1) of the Food and Agricultural Code provides that whenever a person violates any regulation that is adopted pursuant to Article 4 (commencing with section 10781) of Chapter 1, Part 3 of the Food and Agricultural Code, the department may impose an administrative penalty not to exceed one hundred dollars (\$100) per individual animal for each violation.

Existing law, Part 3 (commencing with section 10701), of Chapter 1, Division 5 of the Food and Agricultural Code authorizes the Director to adopt regulations to control or eradicate hog cholera, swine brucellosis, pseudorabies, and other swine diseases by limitations on the movement of swine, use of hog cholera vaccine or other biologics, testing and vaccinations, and any other means determined to be necessary and were adopted pursuant to Article 4, Chapter 1, Part 3, Division 5 of the Food and Agricultural Code.

The Department is proposing the adoption of section 839 under Article 14, of Chapter 2, Division 2, Title 3 of the California Code of Regulations, to specify penalty schedules for any person found to be in violation of specified statutes and regulations, following an investigation and consideration of the facts presented in each case.

Anticipated Benefits of the Proposal: This proposal benefits the livestock industry by serving to ensure that the Department has effective enforcement mechanisms in place by clearly classifying violation categories and establishing penalty schedules in regulation that applies to penalties that may be imposed for violations of specified statutes and regulations. Monetary benefits could include the potential reduction of violations as the penalty schedules may be a deterrent to potential violators of the statutes and regulations affecting the interstate and intrastate movement of livestock, and for meeting requirements for animal disease traceability which enables the Department to mitigate the spread of animal diseases that could negatively impact public health and the food supply.

The penalty schedules may also deter the unauthorized transportation, sale and disposal of diseased animals in accordance with existing statutes and regulations. An example of

nonmonetary benefits would be consumer confidence that safe, wholesome and economical food supply is provided for human consumption.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with the Department's existing State regulations.

Documents Incorporated by Reference: None.

Technical, Theoretical, and Empirical Study, Report, or Similar Documents: None.

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 section 17500 et seq. Require Reimbursement: None.

Business Impact: 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.

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.

The Department has made an initial determination that this regulatory proposal will impact persons and businesses involved in the livestock industry in California who are found, after investigation of the facts and evidence presented in each case, to have violated specified sections of the Food and Agricultural Code and any regulations implementing those Codes.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Any costs imposed would be because any person found to be in violation of specified statutes and regulations, after investigation of the facts presented, that a penalty would be imposed as specified in the penalty schedules specified in this proposal. There would also be costs to a person wishing to appeal the penalty and any violation imposed by the Department to travel to the hearing location and if they wish to hire their own legal counsel.

The anticipated compliance requirements as a result of this proposal: The proposal contains no specific record keeping, paperwork or reporting requirements. It provides information to the regulated public on how the Department assess penalties for violations of statutes and regulations.

Effect on Housing Costs: None.

Effect on Small Business: The Department's proposal may affect small businesses if a producer is found, after investigation of the facts presented in the case, to be in violation of specified

statutes or regulations, and that person may also be a small business owner as defined in Government Code section 11342.610.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

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.

Persons/Businesses affected by this proposal: The Department has made an initial determination that this regulatory proposal will only affect producers or persons involved in the livestock industries in California who are found, after investigation of the facts and evidence presented in each case, to have violated specified sections of the Food and Agricultural Code and any regulations implementing those Codes.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment: The Department is not aware of any specific benefits this proposal will have on worker safety.

The proposed regulation benefits animal health, public health, the food supply, the economy and the environment by serving to ensure violations of specified statutes and regulations will be handled according to the penalty schedules specified in this proposal. This proposal serves to ensure that any violations of existing statutes and regulations as specified in this proposal, are handled quickly and in a cost-effective manner to all parties involved. As authorized by FAC sections 9166 and 10786(a)(1).

Occupations/Businesses Impacted: 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.

The Department has made an initial determination that the proposed regulatory action will have no significant, statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.

The Department has made an initial determination that this regulatory proposal will only impact persons or businesses involved in the livestock industry in California who are found, after investigation of the facts and evidence presented in each case, to have violated specified sections of the Food and Agricultural Code and any regulations implementing those Codes.

Business Reporting Requirement: There are no new reporting requirements as a result of this proposal.

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as 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. The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled public hearing or during the written comment period. This proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes and/or regulations relating to livestock disease control and restricted animals.

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'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 and any written comments concerning this proposal are to be addressed to the following:

Angelina Velez
Department of Food and Agriculture
Animal Health & Food Safety Services
Animal Health Branch
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5103
E-mail: angelina.velez@cdfa.ca.gov

The backup contact person is:
Andrew Halbert
Department of Food and Agriculture
Animal Health & Food Safety Services
1220 N Street, Sacramento, CA 95814
Telephone: (916) 900-5372
E-mail: andrew.halbert@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>

DEPARTMENT OF FOOD AND AGRICULTURE

ANIMAL HEALTH BRANCH

PROPOSED REGULATIONS

Text proposed to be added is displayed in underline type. Text proposed to be deleted is displayed in ~~strikethrough~~ type.

California Code of Regulations
Title 3. Food and Agriculture
Division 2. Animal Industry
Chapter 2. Livestock Disease Control (Animal Quarantine)

1) Amend the heading of Chapter 2, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Chapter 2. Livestock Disease Control (~~Animal Quarantine~~)

5) Adopt new section 839 under Article 14 of Chapter 2, Division 2, Title 3 of the California Code of Regulations, to read as follows:

Section 839. Administrative Penalty Schedules

- (a) Failure to comply with the provisions of Division 5 (commencing with section 9101) of the Food and Agricultural Code, and any regulations adopted pursuant to Division 5, excluding any regulation adopted pursuant to Food and Agricultural Code sections 10781-10786, constitutes a violation and is subject to an administrative penalty of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) for each violation as authorized by section 9166 of the Food and Agricultural Code.
- (b) The Department shall use the provisions of this section to determine the violation class, severity of the violation, and amount of the penalty. One instance of conduct may result in multiple violations.
- (c) For purposes of this section, violations are classified as “serious,” “moderate,” or “minor”. Repeat violations may result in an escalation of violation class and/or penalty. Escalation of penalties may apply for a revolving three-year period from the date of each unique section code violation.
- (d) Table “A” Administrative Violation Classification Schedule shall be used by the Department and provides the level of severity of a particular violation and the corresponding penalty range for “serious”, “moderate”, and “minor” violation classes for violations pursuant to subsection (a) of this section.
 1. “Serious”. Violations that occur recklessly or negligently, or where the risk for spreading animal disease or causing contamination poses an imminent threat to animals, animal products, public health, the environment, or the economy, or violations that resulted, or reasonably could have resulted in the introduction or spread of an animal disease; or interferes with the Department’s efforts to mitigate the introduction or spread of animal diseases including animal disease traceability. Serious violations are punishable by an administrative penalty from five hundred one dollars (\$501) to one thousand dollars (\$1,000).
 2. “Moderate”. Violations in which there is a potential for spreading animal disease or causing contamination, or could pose a threat to animals, animal products, public

- health, the environment, or the economy; or effects the Department's efforts to mitigate the introduction or spread of animal diseases including animal disease traceability. Moderate violations are punishable by an administrative penalty from three hundred one dollars (\$301) to five hundred dollars (\$500).
3. "Minor". Violations that are unintentional or have minimal risk of spreading animal disease or causing contamination or are unlikely to pose a threat to animals, animal products, public health, the environment, or the economy; or interferes minimally with the Department's efforts to mitigate the introduction or spread of animal diseases including animal disease traceability. Minor violations are punishable by an administrative penalty from one hundred dollars (\$100) to three hundred dollars (\$300).
- (e) Failure to comply with any regulations adopted pursuant to Food and Agricultural Code sections 10781-10786, constitutes a violation and is subject to an administrative penalty not to exceed one hundred dollars (\$100) per individual animal as authorized by section 10786(a) of the Food and Agricultural Code.
 - (f) Table "B" Administrative Violation Schedule shall be used by the Department to determine the severity of the violation and amount of the penalty for violations pursuant to subsection (e) of this section. One instance of conduct may result in multiple violations.
 - (g) When determining the penalty for any violation of Division 5 (commencing with section 9101) of the Food and Agricultural Code and any regulations adopted pursuant to Division 5, the Department shall consider any aggravating or mitigating factors. The penalty assessed shall represent a totality of the circumstances; the greater risk or recalcitrance of the violator will place the assessed penalty progressively higher within the range. Cooperation, risk mitigation, and severity of the violation will be considered and will place the penalty at the lower end of the range. The Department shall assess each violation utilizing the following risk categories:
 1. Risk to animal health: A low risk to animal health is one where there is de minimis risk for animal disease to be introduced by an animal, animal product, or activity into pathways that negatively impact animals or leads to the spread of disease. A high risk is one where there is an imminent risk for animal disease to be introduced by an animal, animal product, or activity into pathways that negatively impact animals or leads to the spread of disease; or the event has resulted, or reasonably could have resulted in the introduction or spread of an animal disease.
 2. Risk to public health and/or food supply: A low risk to public health and/or food supply is one where the event or occurrence poses de minimis risk and only under irregular conditions could there be any possibility of an illness or contamination and all reasonable precautions have been taken. A high risk to human health or food supply is one where the event or occurrence poses significant risk and harm, has occurred or is likely to occur, and the violator knew or should have known that the event or activity would result in a risk to public health and food supply or the violator acted recklessly.
 3. Risk to the environment and/or economy: A low risk to the environment and/or the economy is one where there is a de minimis risk and only under irregular conditions could there be any possibility of an economic loss or contamination and all reasonable precautions have been taken. A high risk to the environment and economy is one where the risk is imminent or has occurred on multiple occasions and the violator knew or should have known that the event or activity would result in risk to the economy and/or environment or the violator acted recklessly.

4. Cooperation of the violator: The Department shall consider whether the violator has been non-responsive, recalcitrant or deceptive. The violation can be mitigated by compliance and subsequent remedial measures.
5. Quarantine (Notice of Action Pursuant to Quarantine): It shall be considered high risk to animal health, public health, the environment, and/or the economy when there is any violation of quarantine.

Table "A" Administrative Violation Classification Schedule					
Food & Agricultural Code	Title 3 California Code of Regulations	Description of Violation	Minor \$100-\$300	Moderate \$301-\$500	Serious \$501-\$1000
9101		Failure of any person designated in this section to report to the Department that any animal or animal product is or may be affected by, has been exposed to, or may be transmitting or carrying any condition specified under Monitored Conditions within thirty (30) days as specified in the "List of Reportable Conditions for Animals and Animal Products"	1 st violation	2 nd violation & subsequent	
9101		Failure of any person designated in this section to report to the Department that any animal or animal product is or may be affected by, has been exposed to, or may be transmitting or carrying any condition specified under Regulatory Conditions within forty-eight (48) hours as specified in the "List of Reportable Conditions for Animals and Animal Products"		1 st & 2 nd violation	3 rd violation & subsequent
9101		Failure of any person designated in this section to report to the Department that any animal or animal product is or may be affected by, has been exposed to, or may be transmitting or carrying any condition specified under Emergency Conditions within twenty-four (24) hours as specified in the "List of Reportable Conditions for Animals and Animal Products"			Any violation
9161	1300.14	Failure to maintain records required by chapter 7 for a period of two (2) years after the date of receipt of the animals and/or failure to make records available to any agent of the Department		1 st & 2 nd violation	3 rd violation & subsequent
9161	1300.1	Failure to obtain a permit for transporting diseased animals into California			Any violation
9161	1300.11(b)	Failure of any person receiving livestock which may be manifesting any disease condition specified in section 1300.1(a) or which were transported into California with a permit required by section 1300.1 to do any of the following: 1) notify the Department 2) segregate animals 3) hold animals 4) dispose of animals in accordance with article 2 or 5)			Any violation

		prepare and maintain records of the transactions involving the animals			
9161	1300.12	Failure of any person receiving livestock under the provisions of section 1300.11 to sell, transfer, transport, or otherwise dispose of as required by section 1300.12			Any violation
9164		Any person that removes or causes to be removed any livestock from slaughterhouse pens, yards, corrals, or similar holding places where livestock is held for immediate slaughter without a permit except directly into the slaughterhouse		1st violation	2 nd violation & subsequent
9210		No person shall engage in the production of animal blood or blood component products for retail sale or distribution except in commercial licensed blood bank for animals licensed by the secretary			Any violation
9241		No person shall offer for sale or use any biologic unless it is manufactured pursuant to the terms of a valid license or permit issued by the US Department of Agriculture; or blood or blood component product unless it is produced in an establishment licensed by the secretary			Any violation
9351		Any person that willfully sells, except for immediate slaughter, or exposes other livestock not so infected, to any cattle which have or are infected with the Boophilus annulatus tick			Any violation
9352		Any person that knowingly sells any sheep or cattle infected with scabies, or to expose them in such a manner as may infect other sheep or cattle which are not infected with scabies			Any violation
9561	760.2(g)	Sheep/goats were diverted from the destination specified on the Certificate of Veterinary Inspection	1 st & 2 nd violation	3 rd violation & subsequent	
9561	760.3(h)	Sheep/goats were diverted from the destination specified on the Interstate Livestock Entry Permit	1 st & 2 nd violation	3 rd violation & subsequent	
9561	760.4	Failure to meet the following entry requirements for Rams ≥ six (6) months of age 1) official individual identification 2) negative official test for Brucella ovis within 60 days before entry or be from a Brucella ovis-free flock unless exempt by section 760.4(a)(2)(A), 3) Certificate of Veterinary Inspection	1 st violation	2 nd violation & subsequent	
9561	760.5	Failure to meet the following entry requirements for sheep and goats 1) Interstate Livestock Entry Permit unless exempt by 760.5(a) 2) official identification 3) Certificate of Veterinary Inspection unless exempt by 760.5(c)	1 st & 2 nd violation	3 rd violation & subsequent	
9561	760.5(d)	Failure to meet the following entry requirements for sheep and goats imported into California for exhibition 1) official	1 st violation	2 nd violation & subsequent	

		identification 2) Certificate of Veterinary Inspection 3) Interstate Livestock Entry Permit			
9561	760.6(a)	Missing official identification for sheep and goats changing ownership in California unless exempt by section 760.6(a)	1 st violation	2 nd violation & subsequent	
9561	760.6(b)	Missing official identification for exhibition sheep and goats moving intrastate	1 st violation	2 nd violation & subsequent	
9561	821.4(b)	Failure to obtain a Certificate of Veterinary Inspection for poultry imported into California unless exempt by 821.4(b)	1 st violation	2 nd violation & subsequent	
9561	1301.1(g)	Failure of an owner to segregate or isolate the population of animals or animal product no later than the date and time and by the method determined by the State Veterinarian as specified in a Notice of Quarantine			Any violation
9561	1301.1(h)	Failure of an owner to treat the population of animals or animal product no later than the date and time and by the method determined by the State Veterinarian as specified in a Notice of Quarantine			Any violation
9561	1301.8(a)(2)	The owner refuses to permit or interferes with an inspection of a population of animals or animal product or the premises to ascertain compliance of a quarantine			Any violation
9561	1301.8(a)(3)	The owner fails to cooperate with or interferes with an epidemiological investigation			Any violation
9561	1301.8(a)(4)	The owner fails to complete or cooperate with an epidemiological investigation, plan of action or eradication program to control of eliminate a condition			Any violation
9563	1301.1(e)	Owner moves a population of animals or animal product from a quarantine premises			Any violation
9563	1301.1(f)	Failure of an owner to move a population of animals or animal product to a location specified by the State Veterinarian no later than a date and time and by the method determined by the State Veterinarian as specified in a Notice of Quarantine			Any violation
9641.5(a)(1)		Failure to obtain a valid Certificate of Veterinary Inspection from the state of origin issued within thirty (30) days prior to entry unless exempt by section 9641.6 for any horse or other Equidae	1 st violation	2 nd violation & subsequent	
9641.5(a)(2)		Any horse or other Equidae brought into this state without verification that the horse or other Equidae has been tested within the preceding twelve (12) months and found negative to a test for Equine Infectious Anemia unless exempt by section 9641.5(b).		1 st violation	2 nd violation & subsequent
9694	1301.1(i)	Failure of an owner to cooperate with the State Veterinarian to destroy and dispose of the remains of the population of animals or animal product no later than the date and time and by the method determined by the State			Any violation

		Veterinarian as specified in the Notice of Quarantine			
9695		It is unlawful for any person to hide, secrete, or failure to disclose any animal or property that is suffering from, or that has been exposed or potentially exposed to any disease subject to a current quarantine order, or to fail to disclose the whereabouts of that animal or property			Any violation
9696		It is unlawful for any person to fail or refuse to dispose of any property destroyed in the manner prescribed by the State Veterinarian when directed or required to do so			Any violation
9697		It is unlawful for any person to fail or refuse to clean or disinfect any premises in the manner prescribed by the State Veterinarian when directed to do so by the State Veterinarian			Any violation
9698		It is unlawful for any person to violate any quarantine order which regulates restricts, or restrains the movement of persons, vehicles, farm equipment, farm and dairy products into, from, or from place to place within a quarantined district, area, or premises			Any violation
9699		It is unlawful for any person to violate the conditions of any permit which authorizes the permittee to travel upon any road or highway within a quarantined district, area, or premises			Any violation
9702		It is unlawful for the operator of any vehicle to fail to stop upon demand of a clearly identified animal health quarantine officer when ordered to stop for having reasonable cause to believe a violation of quarantine is occurring			Any violation
10325	831(b)(3)(B)(1)	Failure of any state licensed veterinarian to submit a Report of Heifers Spayed After Arrival within seven (7) days after spaying	1 st & 2 nd violation	3 rd violation & subsequent	
10326	753.2(b)	Cattle or bison, excluding steers and identified spayed females, from areas under brucellosis quarantine by the federal government, state, or country of origin shall not be allowed to enter California			Any violation
10326	755.4(c)(2)(A)	Failure to meet the following entry requirements for Mexico origin sexually intact cattle more than six (6) months of age 1) negative official tuberculosis and 2) negative brucellosis test completed within sixty (60) calendar days of prior to entering California from Mexico		1 st violation	2 nd violation & subsequent
10326	831(b)(2)	Failure to vaccinate as required by a Special Entry Permit issued for entry of brucellosis vaccination age, non-brucellosis vaccinated calves required to be vaccinated within fourteen (14) calendar days after arrival by a contract veterinarian	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent

10326	831(b)(3)	Failure of an owner of non-brucellosis vaccinated heifers to have the heifers spayed after arrival by a California state-licensed veterinarian and/or failure to obtain a Special Entry Permit	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent
10327	753.1(c)(1)	Failure to meet entry requirements for dairy breed female cattle more than four (4) months of age required to have official brucellosis calfhood vaccination, indicated by the presence of legible official calfhood brucellosis vaccination tattoo unless exempt by sections 753.1(c)(2) or (c)(3)	1 st violation	2 nd violation & subsequent	
10351	752(a)(1)	Failure to have female dairy calves vaccinated against brucellosis with an approved vaccine between the ages of four (4) through twelve (12) months	1 st violation	2 nd violation & subsequent	
10352	752(a)(4)	Failure of a licensed Veterinarian to report all use of vaccines for brucellosis calfhood vaccination and eartags used for identification to the Animal Health Branch within fourteen (14) calendar days after vaccination	Any violation		
10610	753	No person shall move, or cause to be moved, from one location to another within California or receive, or cause to be received, any female cattle of the dairy breeds unless they bear evidence of official brucellosis vaccination	1 st violation	2 nd violation	3 rd violation
10610	755.4(b)	Cattle that have been in Mexico and are forty (40) percent or more dairy breed in appearance of genetics shall not be imported into California			Any violation
10610	758(b)(1)	Failure to meet entry requirement for all breeds of cattle, bison, goats and cervids more than six (6) months of age must be negative to an official tuberculosis test completed within sixty (60) calendar days prior to entering California unless exempt by section 758(c)		1 st violation	2 nd violation & subsequent
10610	820.3(a)	Failure to meet entry requirement for non-virgin bulls less than eighteen (18) months of age and bulls eighteen 18 months of age and over must have a negative DNA detection or amplification-based trichomonosis test result within sixty (60) calendar days prior to entry into California unless exempt by section 820.3(d)		1 st violation	2 nd violation & subsequent
10610	820.3(b)	Failure of any bull originating from a herd in which trichomonosis has been diagnosed within the past twenty four 24 months to have two (2) negative trichomonosis tests collected at least seven (7) calendar days apart and a Certificate of Veterinary Inspection that states the requirements in subsections (a)(2) and (b)(1) have been met		1 st & 2 nd violation	3 rd violation & subsequent
10610	820.4(c)	Failure of non-virgin bulls less than eighteen (18) months of age and bulls eighteen 18 months of age and over changing ownership to		1 st violation	2 nd violation & subsequent

		be accompanied by a negative DNA detection or amplification-based trichomonosis test within sixty (60) calendar days prior to sale unless exempt by section 820.4(c)(1)			
10610	820.4(c)(1)(E)(2)	Bulls may be exempt from trichomonosis test when sold to a buyer entering into a Bull Slaughter Agreement. Failure to follow the agreement requirements at change of ownership as outlined in section 820.4(c)(1)(E)(2)	1 st violation	2 nd violation & subsequent	
10610	820.4(d)	Failure of a Public saleyards to post a sign or notice containing the statement "Non-virgin bulls less than 18 months of age and all bulls 18 months of age and over sold for breeding must have a negative trichomonosis test or be consigned as slaughter only"	Any violation		
10610	830.3(g)	Cattle or bison were diverted from the destination specified on the Certificate of Veterinary Inspection	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent
10610	830.4(g)	Cattle or bison were diverted from the destination specified on the Interstate Livestock Entry Permit	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent
10610	831(a)(1)	Failure of any owners requesting permission to enter California for pasture, or return to California after out of state pasture to meet the requirements of the Pasture to Pasture Permit	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent
10610	831(a)(2)	Failure of an owner of cattle issued a One-Time Event Permit for a one-time movement of feeder cattle for use at an event in California or another state to meet the requirements of the One-Time Event Permit	1 st & 2 nd violation	3 rd violation	4 th violation & subsequent
10610	831(b)(4)	Failure to meet requirements of a Special Entry Permit issued for entry of cattle for feeding at a terminal feedlot or moved into slaughter pens by the owner or agent of the owner		1 st violation	2 nd violation & subsequent
10610	831(b)(5)	Failure to meet requirements of a Special Entry Permit for entry of heifers under eighteen (18) months of age for feeding at a registered feedlot by the owner or agent of the owner		1 st violation	2 nd violation & subsequent
10610	831.2(c)(1)	Removal of official identification devices is prohibited except at the time of slaughter or death of the animal or as otherwise approved when replacement is needed	1 st violation	2 nd violation & subsequent	
10610	831.2(g)	Official identification devices are not to be sold or transferred from the original premises to which it was issued without authorization by the Department or USDA	1 st & 2 nd violation	3 rd violation & subsequent	
10610	831.3(a)	Failure to officially identify cattle and bison listed in this section before entering California using an official identification device or method as provided in section 831.2(a) unless exempt by section 831.3(b)	1 st violation	2 nd violation & subsequent	
10610	831.4(a)	Failure to obtain a valid Certificate of Veterinary Inspection for cattle and bison	1 st violation	2 nd violation & subsequent	

		moved into California pursuant to section 830.3 unless exempt by 831.4(a)			
10610	831.4(d)	Failure to obtain a valid Interstate Livestock Entry Permit for cattle and bison unless exempt by section 831.4(d)	1 st violation	2 nd violation & subsequent	
10610	831.5(a)	Failure to officially identify Dairy cattle born in California after January 1, 2017 prior to leaving their birth premises unless exempt by section 831.5(a)	1 st violation	2 nd violation & subsequent	
10610	831.5(b)	Failure to officially identify Dairy cattle when changing ownership unless exempt by section 831.5(b)	1 st violation	2 nd violation & subsequent	
10610	831.5(b)(3)(A)	Failure to correlate USDA approved backtags to an owner	1 st violation	2 nd violation & subsequent	
10610	831.5(c)	Failure to officially identify non-virgin sexually intact male cattle less than eighteen (18) months of age and sexually intact male cattle eighteen (18) months of age or over prior to change of ownership, unless exempt by section 831.5(c)	1 st violation	2 nd violation & subsequent	
10610	831.5(d)	Failure to officially identify beef breed female cattle moving to recognized slaughtering establishment or failure to apply a USDA approved backtag	1 st & 2 nd violation	3 rd violation & subsequent	
10610	837	Failure of any USDA accredited and state licensed veterinarians, approved livestock facilities, approved licensed dealers, any person receiving livestock, any person applying any official ear tag or device, vaccination eartags, replacing temporary identification, backtag to maintain records and supporting documents for five (5) years	1 st & 2 nd violation	3 rd violation & subsequent	
10610	1302.2	Failure of any applicant to comply with the requirements for approved terminal feedlots		1 st & 2 nd violation	3 rd violation & subsequent
10610	1302.3	Failure of any applicant to comply with requirements of a Slaughter Pen status		1 st & 2 nd violation	3 rd violation & subsequent
10951		It is unlawful for any person to feed swine any garbage unless the garbage has been processed in accordance with CCR section 794.1	1 st violation	2 nd violation	3 rd violation & subsequent

Table "B" Administrative Violation Schedule			
Food & Agricultural Code	Title 3 California Code of Regulations	Description of Violation	Penalty
10781	796.4(b)	Failure to meet the following entry requirements for swine imported into California for any purpose, except slaughter, 1) valid Certificate of Veterinary Inspection 2) official identification 3) valid Interstate Livestock Entry Permit and 4) negative test	\$25-\$100 per animal

		result to official pseudorabies test within thirty (30) days) prior to entry unless exempt by section 796.4(d)	
10781	796.5(b)	Failure to meet the following entry requirements swine imported into California for any purpose, except slaughter, 1) valid Certificate of Veterinary Inspection 2) valid Interstate Livestock Entry Permit 3) official identification and 4) for sexually intact swine over four (4) months of age, a negative test result to an official brucellosis test within thirty (30) days prior to entry unless exempt by section 796.5(d)	\$25-\$100 per animal
10781	796.2(g)	Swine were diverted from the destination specified on the Certificate of Veterinary Inspection	\$25-\$100 per animal
10781	796.3(h)	Swine were diverted from the destination specified on the Livestock Entry Permit	\$25-\$100 per animal
10781	796.6(b)	Failure to obtain an Interstate Livestock Entry Permit and officially identify swine imported into California for immediate slaughter	\$25-\$100 per animal
10781	796.6(b)(3)	Failure to unload swine imported for immediate slaughter at slaughter facility within twenty-four (24) hours after entering California without diversion	\$25-\$100 per animal
10781	796.6(b)(4)	Failure to slaughter swine imported for immediate slaughter within fourteen (14) days of importation into California	\$25-\$100 per animal

**DEPARTMENT OF FOOD AND AGRICULTURE
ANIMAL HEALTH BRANCH
INITIAL STATEMENT OF REASONS**

SUBJECT MATTER OF PROPOSED REGULATION

Administrative Penalty Schedules

SECTIONS AFFECTED

Adopt section 839

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL

Existing law, section 11342.2 of the Government Code section, allows state agencies to adopt regulations that are reasonably necessary to effectuate the purpose of a statute, based on implied authority within that governing statute.

Existing law, section 407 of the Food and Agricultural Code, provides that the Secretary of the Department of Food and Agriculture (Department) may adopt such regulations as are reasonably necessary to carry out the provisions of the code which she is directed or authorized to administer or enforce.

Existing law, Chapter 1.5 (commencing with section 9201), of Part 1, Division 5 of the Food and Agricultural Code authorizes the secretary to impose such conditions on the production or use of blood or blood component products as is deemed necessary to accomplish the purposed of Chapter 1.5 for Commercial Blood Banks for Animals and Biologics.

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 of the Food and Agricultural Code 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.

Existing law, sections 10324, 10326, 10327 and 10386 of Food and Agricultural Code authorize the adoption of regulations for the control and prevention of bovine brucellosis through limitations of movement, tests, vaccinations, or reports and records or other means as determined.

Existing law, section 10610, of the Food and Agricultural Code authorizes the Secretary of the Department to adopt regulations to control and eradicate cattle diseases through limitations on intrastate and interstate movement, and by requiring permits, diagnostic testing, vaccinations, or other appropriate methods of treatment and control.

Existing law, Chapter 2 (commencing with section 10901), of Part 3, Division 5 of the Food and Agricultural Code authorizes the director to make and enforce such regulations as are reasonable and necessary to carry out the provisions of Chapter 2 for Garbage Control in order to prevent the spread of vesicular exanthema and other contagious and infectious swine diseases.

Existing law, section 9166 of the Food and Agricultural Code authorizes any person who violates any provision of Division 5 (commencing with section 9101) of the Food and Agricultural Code, and any regulations adopted pursuant to Division 5, is subject to an administrative penalty of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) for each violation. Each violation during any day constitutes a separate offense. Any money that is recovered under this section shall be paid into the State Treasury and shall be credited to the Department of Food and Agriculture Fund.

Existing regulations under Chapter 2 (Livestock Disease Control [Animal Quarantine]) (commencing with section 751), of Division 2 (Animal Industry), Title 3 of the California Code of Regulations, specify the requirements for livestock disease control and eradication, and traceability implemented through official identification, documentation, vaccination, and diagnostic testing for animals moving interstate and intrastate and were adopted pursuant to Division 5 of the Food and Agricultural Code.

Existing Articles 3 and 3.5, et seq. (commencing with section 760), of Chapter 2, Division 2, Title 3 of the California Code of Regulations, sets forth the requirements for the movement of sheep and goats into and within the state to prevent the introduction and spread of sheep scabies and scrapie diseases in California. These regulations were adopted pursuant to Division 5 section 9561 of the Food and Agricultural Code, by placing restrictions at the border on sheep and goat movement, it prevents animals that do not meet the requirements for disease free verification, from introducing or spreading diseases determined to be a risk to animal or the health and safety of the public.

Existing Article 13 (commencing with section 821), of Chapter 2, Division 2, Title 3 of the California Code of Regulations sets forth the requirements for the interstate movement of poultry. These regulations were adopted pursuant to Division 5 section 9561 of the Food and Agricultural Code, in that by placing restrictions at the border it prevents poultry that

do not meet the requirements for disease free verification, from spreading or introducing diseases determined to be a risk to animal or the health and safety of the public

Additionally, Chapter 7 (Restricted Animals) (commencing with section 1300), of Division 2, Title 3 of the California Code of Regulations, establishes regulations for the transportation, sale and disposal of restricted or diseased animals and for the establishment of a quarantine on a premises and were adopted pursuant to Division 5 of the Food and Agricultural Code.

Existing law, section 10786(a)(1) of the Food and Agricultural Code provides that whenever a person violates any regulation that is adopted pursuant to Article 4 (commencing with section 10781) of Chapter 1, Part 3 of the Food and Agricultural Code, the department may impose an administrative penalty not to exceed one hundred dollars (\$100) per individual animal for each violation.

Existing law, Part 3 (commencing with section 10701), of Chapter 1, Division 5 of the Food and Agricultural Code authorizes the Director to adopt regulations to control or eradicate hog cholera, swine brucellosis, pseudorabies, and other swine diseases by limitations on the movement of swine, use of hog cholera vaccine or other biologics, testing and vaccinations, and any other means determined to be necessary and were adopted pursuant to Article 4, Chapter 1, Part 3, Division 5 of the Food and Agricultural Code.

No regulations are in place to enforce these sections of law specifying fines and penalties. Therefore, there is necessity for the Department to implement regulations for livestock disease control and restricted animals by proposing to make a technical amendment by adding a new Subchapter 2 to Chapter 2, Division 2, and by proposing to adopt section 839 under new Subchapter 2 of new Article 1, Chapter 2, Division 2, of Title 3 of the California Code of Regulations, to specify penalty schedules for persons found to be in violation of specified statutes and regulations, following an investigation and consideration of the facts presented in each case.

PROBLEM(S) INTENDED TO ADDRESS

Pursuant to Government Code section 11425.50(e), a penalty may not be based on a guideline, criterion, bulletin, manual, instruction, order, or standard of general application unless it has been adopted as a regulation. The Department's Animal Health Branch has no specified criteria placed in regulation on how the Department may assess any penalties for violations of its statutes and regulations for livestock disease control and restricted animals following an investigation of the evidence and facts presented in each case. This proposal will enhance the ability of the Department to carry out administrative

enforcement in a consistent manner by providing a standard and systematic approach to the assessment of administrative penalties. This approach is based on the violation and the potential harm to animal health, public health and/or the food supply, the environment and/or the economy. Therefore, the Department is proposing to adopt regulations specifying violation categories, a range of fines that may be assessed to establish administrative penalty schedules in accordance of Food and Agricultural Code sections 9166 and 10786(a)(1).

STATEMENT OF FACTUAL BASIS AND RATIONALE

The Department is responsible for promoting and protecting the agricultural industry of California. Further, the Department seeks to enhance, protect, and perpetuate the ability of the agricultural industry to produce food and fiber in a way that benefits the general welfare and economy of California, and maintains the economic well-being of agriculturally dependent rural communities in California.

It is the intent and responsibility of the Department to prevent and control livestock diseases to ensure a safe, wholesome and economical food supply is available to the citizens of the State. Similarly, California ranchers and farmers work hard to protect their livelihood by keeping their animals healthy and producing meat, milk, and fiber in a manner that meets consumer demands all while keeping consumers confident that their products are healthy and safe. To coordinate the goals and efforts of the Department and California producers, the Department maintains regulations for the prevention, control, and eradication of livestock diseases.

Specifically, the Animal Health Branch (Branch) within the Department is the State's professional veterinary medical unit that protects livestock, consumers, and California's economy from catastrophic animal diseases and other health issues. It addresses diseases and other issues that cannot be successfully controlled on an individual animal or herd basis but require statewide coordinated efforts. The Branch is responsible for deterring any activities that have the potential to compromise California's abundant food supply or the safety of public and animal health.

The Department has identified a need to establish administrative penalty schedules in regulation so that the public understands the penalty that may be imposed upon them should they be found, after investigation of the facts and evidence presented in each case, to be in violation of specified statutes and regulations relating to livestock disease control and restricted animals.

Outlined below are the changes the Department is proposing to Title 3 of the California Code of Regulations.

1) Amend the heading of Chapter 2, Division 2, of Title 3 of the California Code of Regulations, to read as “Livestock Disease Control (~~Animal Quarantine~~)” to accurately describe regulations covered in Chapter 2, as Animal Quarantine regulations are contained in Chapter 7 of Division 2, of Title 3 of the California Code of Regulations.

2) Adopt new section 839 under Article 14, of Chapter 2, Division 2, of Title 3 of the California Code of Regulations, to specify the administrative penalty provisions.

Section 839. Administrative Penalty Schedules is the heading that describes the contents of the new subsection.

Subsection (a) is needed to inform the regulated public that the Department may impose a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) for each violation of statutes and regulations adopted pursuant to Division 5 of the Food and Agricultural Code relating to livestock disease control and restricted animals. This section also lists the Food and Agricultural Code section that authorizes the Department to levy a fine against a person or producer if they violate those sections of law, relating to the regulations for livestock disease control and restricted animals. The fine range is consistent with Food and Agricultural Code section 9166.

Subsection (b) provides clarity to the regulated public by explaining how a penalty amount will be determined for the violation categories.

Subsection (c) provides clarity to the regulated public by explaining the terms used to describe categories of violations as well as explain that violations range in severity from serious, moderate, to minor. Subsection (c) also provides explanation of the escalation of a violation class due to repeat violations and specifies the applicable revolving term period for violations.

Subsection (d) references Table “A”, the Administrative Violation Classification Schedule. The table is included in this regulation section and will be printed in Title 3 of the California Code of Regulations. The table indicates the range of penalties for each of the cited sections from the Food and Agricultural Code and/or Title 3 of the California Code of Regulations. There are no new penalty provisions being adopted into the table. The table simply cites excerpts from specified statutes and regulations, and they are placed in a table format. The penalties range from \$100 to \$1,000. After determination and a review of the facts and evidence presented in each case, a penalty will be assessed to the alleged violators according to the penalty schedule. The penalty schedule

provides the public with clear information on how the Department will cite and fine persons and producers, and what it considers to be serious, moderate or minor offenses, as specified.

Subsections (d)(1), (2) and (3) provides the public with an explanation and definitions of what the Department considers to be serious, moderate, and minor violations of its statutes and regulations. It will depend upon the extent of the threat on public health and/or food supply, animal health, the environment and/or the economy, and the level of potential harm as indicated by the circumstances and facts of each case.

For example, a serious violation is one that occurs recklessly and poses a significant risk to animal health, public health, to the food supply, to the environment, or to the economy. Quarantines are placed on a premises to contain, prevent, or eradicate animal diseases. If an owner violates the requirements of a quarantine, there is a high and likely risk that a disease could affect other livestock thereby threatening the States food supply and the economy and causing harm to animal and public health. These types of violations jeopardize the effectiveness of a quarantine and interfere with the control and eradication of known or suspected livestock diseases.

A moderate violation is one that occurs carelessly, or the occurrence poses a likely risk to animal health, public health and/or the food supply, or to the environment and/or the economy.

A minor violation lacks intent or occur mistakenly or their occurrence poses a low risk to animal health, public health and/or the food supply, or to the environment and/or the economy.

The Department believes that these penalty provisions will enhance its ability carry out administrative enforcement in a consistent manner by providing a standard and systematic approach to the assessment of administrative penalties.

Subsection (e) is needed to inform the regulated public that the Department may impose a fine not to exceed one hundred dollars (\$100) per individual animal for each violation of statutes and regulations adopted pursuant to Article 4, Chapter 1, Part 3, Division 5 of the Food and Agricultural Code relating to swine disease control. This section also lists the Food and Agricultural Code section that the Department may levy a fine against if a person or producer violates those sections of law. The fine range is consistent with Food and Agricultural Code section 10786(a)(1).

Subsection (f) references Table “B”, the Administrative Violation Classification Schedule. The table is included in this regulation section and will be printed in Title 3 of the California Code of Regulations. The table indicates the range of penalties for each of the cited sections from the Food and Agricultural Code and/or Title 3 of the California Code of Regulations. There are no new penalty provisions being adopted into the table. The table simply cites excerpts from specified statutes and regulations, and they are placed in a table format. The penalties range from \$25 to \$100. After determination and a review of the facts and evidence presented in each case, a penalty will be assessed to the alleged violators according to the penalty schedule. The penalty schedule provides the public with clear information on how the Department will cite and fine persons and producers.

Section (g) and Subsection (g)(1), (2), (3), (4) and (5) provides the public with the factors that the Department uses in determining the penalty amount within the serious, moderate and minor ranges. The department will also consider aggravating and mitigating factors. The categories that determine the penalty amount are the following: Risk to Animal Health, Public Health and/or Food supply, Risk to the Environment and/or the Economy, Cooperation of the violator and if a quarantine violation is involved in the offense.

When evaluating a risk to animal health the department will take into consideration the degree and magnitude of the activity that negatively impacts animals or leads to the spread of disease.

When evaluating a risk to public health and/or the food supply the department will take into consideration such issues as: The degree and magnitude that the activity engaged in by the violator places a risk to public health and or the food supply; Any precautions taken to prevent adverse impact to public health and/or the food supply; if there was harm to public health and/or the food supply, the degree and magnitude of the harm.

When evaluating a risk to the environment and/or the economy the department will take into consideration the degree and magnitude of the activity constituting the violation and the threat it poses to the environment and/or the economy. The department will look at actions undertaken to prevent or mitigate any threat to the environment and/or the economy.

When evaluating the cooperation of the violator, whether the violator is recalcitrant or takes proactive steps to immediately correct the actions that are outside of the law.

Finally, the department shall consider it high risk to animal health, public health, the environment, and/or the economy when there is any violation of quarantine.

The final determination of the penalty will be evaluated using these five categories and judged on a totality of the circumstances.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT

No technical, theoretical or empirical study, report, or similar document was used in the formulation of this proposal

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF REASONABLE ALTERNATIVES

No reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as 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. This proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes and/or regulations relating to livestock disease control and restricted animals.

REASONABLE ALTERNATIVES THE DEPARTMENT HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

No alternatives were identified by the Department and no adverse impact to small businesses are expected as a result of this proposed action. This proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes and/or regulations relating to livestock disease control and restricted animals.

BENEFITS OF THIS REGULATORY ACTION

This proposal benefits the livestock industry by serving to ensure that the Department has effective enforcement mechanisms in place by clearly classifying violation categories and establishing penalty schedules in regulation that applies to penalties that may be imposed for violations of specified statutes and regulations. Monetary benefits could include the potential reduction of violations as the penalty schedules may be a deterrent to potential violators of the statutes and regulations that place requirements for livestock disease control including animal disease traceability which enables the Department to prevent and mitigate the spread of animal diseases that could negatively impact public health, the food supply, animal health, the economy, and the environment.

An example of a nonmonetary benefit would be consumer confidence that safe, wholesome and economical food supply is provided for human consumption.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

No facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business have been identified.

ANTICIPATED COMPLIANCE REQUIREMENTS AS A RESULT OF THIS PROPOSAL

The proposal contains no specific record keeping, paperwork or reporting requirements. It provides information to the regulated public on how the Department may assess penalties for violations of statutes and regulations.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

This proposal does not duplicate or conflict with federal regulations.

ECONOMIC IMPACT ASSESSMENT

Business Impact

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.

The Department has made an initial determination that the proposed regulatory action will have no significant, statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.

The Department has made an initial determination that this regulatory proposal will impact producers or persons involved in the livestock industries in California who are found, after investigation of the facts and evidence presented in each case, to have violated specified sections of the Food and Agricultural Code and any regulations implementing those Codes.

The Department's proposal may affect small businesses if a producer or person is found, after investigation of the facts presented in the case, to be in violation of specified statutes or regulations, and that producer or person may also be a small business owner as defined in Government Code section 11342.610.

The Department is not aware of any cost impacts that a representative, private person or business would necessarily incur in reasonable compliance with the proposed action. Any costs imposed would be because of a person who was found to be in violation of specified statutes and regulations, after investigation of the facts presented, and a penalty would be imposed as specified in the penalty schedules specified in this proposal. There would also be costs to a person wishing to appeal the penalty and violation imposed by the Department to travel to the hearing location and if they wish to hire their own legal counsel.

The above-noted determinations are based on the fact that this proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes and/or regulations relating to livestock disease control and restricted animals in accordance with Food and Agricultural Code sections 9166 and 10786(a)(1).

Persons/Businesses affected by this proposal:

The Department has made an initial determination that this regulatory proposal will only affect producers or persons involved in the livestock industries in California who are found, after investigation of the facts and evidence presented in each case, to have violated specified sections of the Food and Agricultural Code and any regulations implementing those Codes.

Anticipated compliance requirements for persons or businesses are as follows:

- This regulation imposes no costs or fees upon the regulated public. Any fees incurred would be upon persons where a penalty was imposed according to the penalty schedules as specified in this proposal. If they wish to appeal the Department's decision, they would bear the burden of their own costs including transportation and legal costs, if any.

- No paperwork, reporting, or record keeping requirements are imposed by this proposal.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment:

The Department is not aware of any specific benefits this proposal will have on worker safety.

The proposed regulation benefits public health, animal health, the economy and the environment by serving to ensure violations of specified statutes and regulations will be handled according to the penalty schedules specified in this proposal. This proposal serves to ensure that any violations of existing statutes and regulations as specified in this proposal, are handled quickly and in a cost-effective manner to all parties involved.

This regulatory proposal will provide clarity to the public as to the violation categories and the fines and penalties that may be imposed by the Department for a violation of specified statutes and regulations relating to livestock disease control and restricted animals in California. It also provides tables showing how the Department will assess the penalties specified in this proposal. The Department's enforcement activities relating to requirements of livestock disease control and prevention will ensure the safety of California's food supply and protect public and animal health.

The above determinations are based on the fact this regulatory proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes and/or regulations relating to livestock disease control and restricted animals in accordance with Food and Agricultural Code sections 9166 and 10786(a)(1).

Economic Impact Assessment Conclusion

The Department has made an initial determination that the proposed regulatory action will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. The proposal does not affect the creation of new businesses or the elimination of existing businesses within the State of California and does not affect the expansion of businesses currently doing business within the State of California. The proposed regulation benefits animal health, public health, the food supply, the environment, and the economy by serving to ensure producer compliance with statutes and regulations relating to livestock disease control and restricted animals in California. This proposal is necessary to establish procedures for the implementation of administrative penalties against any person found to be in violation of specified statutes

and/or regulations relating to livestock disease control and restricted animals, including the adoption of penalty schedules, in accordance with 9166 and 10786(a)(1) of the Food and Agricultural Code.

ECONOMIC IMPACT STATEMENT

DEPARTMENT NAME Food and Agriculture	CONTACT PERSON Angelina Velez	EMAIL ADDRESS angelina.velez@cdfa.ca.gov	TELEPHONE NUMBER 916-900-5103
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Administrative Penalty Schedules			NOTICE FILE NUMBER Z

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *Include calculations and assumptions in the rulemaking record.*

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts business and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance
- ☐ g. Impacts individuals
- ☒ h. None of the above (Explain below):

Provides a penalty range for enforcement actions for violators

*If any box in Items 1 a through g is checked, complete this Economic Impact Statement.
If box in Item 1.h. is checked, complete the Fiscal Impact Statement as appropriate.*

2. The _____ estimates that the economic impact of this regulation (which includes the fiscal impact) is:
(Agency/Department)

☐ Below \$10 million

☐ Between \$10 and \$25 million

☐ Between \$25 and \$50 million

☐ Over \$50 million *[If the economic impact is over \$50 million, agencies are required to submit a [Standardized Regulatory Impact Assessment](#) as specified in Government Code Section 11346.3(c)]*

3. Enter the total number of businesses impacted: _____

Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

4. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

5. Indicate the geographic extent of impacts: ☐ Statewide

☐ Local or regional (List areas): _____

6. Enter the number of jobs created: _____ and eliminated: _____

Describe the types of jobs or occupations impacted: _____

7. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here? ☐ YES ☐ NO

If YES, explain briefly: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)**B. ESTIMATED COSTS** *Include calculations and assumptions in the rulemaking record.*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____
 - a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____
 - d. Describe other economic costs that may occur: _____
2. If multiple industries are impacted, enter the share of total costs for each industry: _____
3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements.
Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted. \$ _____
4. Will this regulation directly impact housing costs? ☐ YES ☐ NO
 If YES, enter the annual dollar cost per housing unit: \$ _____
 Number of units: _____
5. Are there comparable Federal regulations? ☐ YES ☐ NO
 Explain the need for State regulation given the existence or absence of Federal regulations: _____
- Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS *Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. Briefly summarize the benefits of the regulation, which may include among others, the health and welfare of California residents, worker safety and the State's environment: _____
2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?
 Explain: _____
3. What are the total statewide benefits from this regulation over its lifetime? \$ _____
4. Briefly describe any expansion of businesses currently doing business within the State of California that would result from this regulation: _____

D. ALTERNATIVES TO THE REGULATION *Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

ECONOMIC IMPACT STATEMENT (CONTINUED)

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation: Benefit: \$ _____ Cost: \$ _____

Alternative 1: Benefit: \$ _____ Cost: \$ _____

Alternative 2: Benefit: \$ _____ Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ YES ☐ NO

Explain: _____

E. MAJOR REGULATIONS *Include calculations and assumptions in the rulemaking record.****California Environmental Protection Agency (Cal/EPA) boards, offices and departments are required to submit the following (per Health and Safety Code section 57005). Otherwise, skip to E4.***1. Will the estimated costs of this regulation to California business enterprises **exceed \$10 million**? ☐ YES ☐ NO***If YES, complete E2. and E3******If NO, skip to E4***

2. Briefly describe each alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

(Attach additional pages for other alternatives)

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 1: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

Alternative 2: Total Cost \$ _____ Cost-effectiveness ratio: \$ _____

4. Will the regulation subject to OAL review have an estimated economic impact to business enterprises and individuals located in or doing business in California exceeding \$50 million in any 12-month period between the date the major regulation is estimated to be filed with the Secretary of State through 12 months after the major regulation is estimated to be fully implemented?

☐ YES ☐ NO*If YES, agencies are required to submit a [Standardized Regulatory Impact Assessment \(SRIA\)](#) as specified in Government Code Section 11346.3(c) and to include the SRIA in the Initial Statement of Reasons.*

5. Briefly describe the following:

The increase or decrease of investment in the State: _____

The incentive for innovation in products, materials or processes: _____

The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*

☐ 1. Additional expenditures in the current State Fiscal Year which are reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

☐ a. Funding provided in _____
Budget Act of _____ or Chapter _____, Statutes of _____

☐ b. Funding will be requested in the Governor's Budget Act of _____
Fiscal Year: _____

☐ 2. Additional expenditures in the current State Fiscal Year which are NOT reimbursable by the State. (Approximate)
(Pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code).

\$ _____

Check reason(s) this regulation is not reimbursable and provide the appropriate information:

☐ a. Implements the Federal mandate contained in _____

☐ b. Implements the court mandate set forth by the _____ Court.

Case of: _____ vs. _____

☐ c. Implements a mandate of the people of this State expressed in their approval of Proposition No. _____

Date of Election: _____

☐ d. Issued only in response to a specific request from affected local entity(s).

Local entity(s) affected: _____

☐ e. Will be fully financed from the fees, revenue, etc. from: _____

Authorized by Section: _____ of the _____ Code;

☐ f. Provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each;

☐ g. Creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Annual Savings. (approximate)

\$ _____

☐ 4. No additional costs or savings. This regulation makes only technical, non-substantive or clarifying changes to current law regulations.

☒ 5. No fiscal impact exists. This regulation does not affect any local entity or program.

☐ 6. Other. Explain _____

**ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)**

STD. 399 (Rev. 10/2019)

FISCAL IMPACT STATEMENT (CONTINUED)**B. FISCAL EFFECT ON STATE GOVERNMENT** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

It is anticipated that State agencies will:☐ a. Absorb these additional costs within their existing budgets and resources.☐ b. Increase the currently authorized budget level for the _____ Fiscal Year☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any State agency or program.☐ 4. Other. Explain _____**C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS** *Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.*☐ 1. Additional expenditures in the current State Fiscal Year. (Approximate)

\$ _____

☐ 2. Savings in the current State Fiscal Year. (Approximate)

\$ _____

☒ 3. No fiscal impact exists. This regulation does not affect any federally funded State agency or program.☐ 4. Other. Explain _____


FISCAL OFFICER SIGNATURE

 **Nathan Johnson** Digitally signed by Nathan Johnson
Date: 2020.11.30 10:38:15 -08'00'

DATE

11-30-2020*The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

AGENCY SECRETARY

 **Annette Jones, D.V.M.** Digitally signed by Annette Jones, D.V.M.
Date: 2021.03.10 11:39:11 -08'00'

DATE

March 10, 2021*Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD. 399.*

DEPARTMENT OF FINANCE PROGRAM BUDGET MANAGER



DATE