

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**15-DAY NOTICE OF MODIFICATIONS TO THE TEXT AND NOTICE OF DOCUMENT ADDED**  
**TO THE RULEMAKING FILE RELATING TO DISEASED ANIMALS**

**NOTICE IS HEREBY GIVEN** of modifications to the originally proposed regulatory text, and the addition of a document to the rulemaking file for the Department of Food and Agriculture (Department), Animal Health and Food Safety Services, Animal Health Branch. The proposed modifications pertain to the originally proposed regulatory text and documents referred to in the Informative Digest published in the California Regulatory Notice Register on February 22, 2013 [Notice File No. Z2013-0207-02, Register 2013, No. 8-Z] relating to the Department's regulations for the movement of diseased animals.

The Department is now providing notice of proposed modifications to sections 1300., 1300.1, and 1300.2 (section number as shown in the originally proposed text) of Article 1, and section and 1300.15 of Article 2, Chapter 7, Division 2, of Title 3 of the California Code of Regulations. Further, the Department is making available to the public and adding to the rulemaking file an Addendum to the Initial Statement of Reasons (ISR) regarding the originally proposed regulation text. The purpose of the Addendum to the ISR is to further clarify the intent of the original proposal as shown in *italics*. Both the modified text and the Addendum to the ISR are enclosed.

Any person who wishes to comment on the text as modified, or the text added as shown in italics in the Addendum to the ISR, may do so by submitting written comments\* beginning **October 21, 2013** and ending 5 p.m., **November 5, 2013**, to the following person:

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

DATED: **October 8, 2013**



Anita Edmondson, BVM&S, MPVM, MRCVS  
Department of Food and Agriculture  
Animal Health Branch

**\*Please note:** Any written comments are to be restricted to the recent modifications as shown in the attached regulatory text and 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 proposed regulation. All written comments received by **November 5, 2013**, which pertain to the indicated changes, will be reviewed and responded to by the Department as part of the compilation of the rulemaking file.

**DEPARTMENT OF FOOD AND AGRICULTURE**  
Animal Health and Food Safety Services  
Animal Health Branch  
PROPOSED REGULATION – DISEASED ANIMALS

**MODIFIED TEXT**

**Legend for Modified Text:**

- Single underline and ~~strikeout~~ is text that was noticed to the public for a 45-day comment period ending April 8, 2013.
- Modified text is shown in ~~double-strikeout~~ and single underline for deleted text, and double underline for added text.

All written comments must address the modified text only.

The Department of Food and Agriculture, Animal Health Branch, proposes to amend sections 1300, 1300.1, 1300.2 (section number as shown in the originally proposed text) of Article 1, and section 1300.15 of Article 2, Chapter 7, Division 2, Title 3 of the California Code of Regulations, to read as follows:

Article 1. Permits for Transportation and Sale of Diseased Animals to ~~Slaughterers, Salesyards and Stockyards~~

Section 1300. Compliance with Federal Regulations.

(a) ~~(Reserved)~~

~~(b) Federal Regulations. These articles have been adopted after consultation with the United States Secretary of Agriculture. The requirements of these articles are supplementary to those of the Secretary United States Department of Agriculture in Title 9, Code of Federal Regulations, Part 71.3 (2012 Edition). Whenever any permit is required by these articles, such requirements may be satisfied by filing with the Director Department Department of Food and Agriculture (Department) a copy of a permit or comparable documents issued by the Secretary United States Department of Agriculture and containing substantially the same information and requirements.~~

NOTE: Authority cited for ~~new Subchapter 6: Sections 407, 9572, 18735, 19380, Food and Agricultural Code. Reference: Sections 9562, 9570, and 18735, Food and Agricultural Code.~~

Section 1300.1. Permit for Transportation of Diseased Animals into California.

(a) ~~No person shall transport into the State, any livestock~~ A permit for transporting diseased animals into California is required for any livestock, as defined in Section 18663 of

the Food and Agricultural Code, known to have any of the following conditions or diseases or manifesting any of the following diseased conditions ~~except under permit of the Director:~~

~~(1) Inability to walk normally or stand~~

~~(2)(1) Abnormal temperature (high or low)~~

~~(3)(2) Difficult breathing~~

~~(4)(3) Abnormal swellings~~

~~(5)(4) Foul odor and running sores~~

~~(6)(5) Tumors or cancer growths~~

~~(7)(6) Gangrene of the udder (blue bag)~~

~~(8)(7) Water belly or swollen brisket~~

~~(9)(8) Infections of the region of eye (epithelioma-eye cancer in which the eye is destroyed or covered with a tissue mass showing infection, suppuration, and necrosis, usually accompanied with a foul odor).~~

(9) Any other condition as determined by the State Veterinarian that may pose a threat for the introduction or spread of livestock conditions or diseases into the State.

(b) ~~Applications~~ Requests for permits required under subsection (a) shall be made to the California Department of Food and Agriculture, Animal Health and Food Safety Services, Animal Health Branch, 1220 "N" Street, Sacramento, CA 95814, and may also be made by telephone, electronic transmission, or other means approved by the Department. Requests for permits shall be made before the animals are transported to California and shall include the name and address of ~~both~~ the consignor and consignee, and the number, breed, and type of livestock.

(c) The consignor, as a condition for the issuance of the permit, shall agree to comply with requirements thereof, which may include:

(1) Description and marking, or individual identification of the livestock;

(2) Designation of the carrier and the time and place of destination;

(3) Segregation and holding of the livestock for inspection at destination by the consignor; and

(4) Obtaining a certificate signed by a Federal or State veterinary veterinarian or livestock inspector, or an accredited veterinarian, that the livestock to be shipped have been examined ~~and none of the animals appears or is known to be affected with a contagious disease.~~

(d) The consignee, as a condition for the issuance of the permit, shall agree to comply with the requirements thereof which shall include the requirements of ~~§~~section 1300.11.

~~(e)~~ (e) Each permit granted pursuant to subsection (a) shall state the destination of each shipment, without diversion, as

(1) A slaughter establishment under inspection by the ~~Director~~ Department or the Secretary United States Department of Agriculture;

(2) An establishment licensed by the ~~Director~~ Department as a pet food and horse slaughterer or renderer;

(3) A named livestock saleyard or public stockyard; or

(4) An institution conducting research into animal diseases, employing a professional staff for such purpose; or

(5) An establishment providing veterinary care.

(f) A copy of the required permit shall accompany each shipment. It shall be made available to inspectors of the Department, the United States Department of Agriculture, or law enforcement officers upon request.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9561, 9562, 9570, ~~9574~~, 18663, 18735, and 18851 and 19380, Food and Agricultural Code.

#### ~~Section 1300.2. Verification of Shipments Under Permit.~~

~~A copy of the required permit specified in Section 1300.1 shall accompany each shipment. It shall be exhibited to inspectors of the Department, the Secretary, or other law enforcement officers upon request.~~

#### Section 1300.3 2. Violations.

(a) Any owner or person in possession of livestock manifesting disease as specified in Section 1300.1 and transported in violation of the requirements of that section are a public nuisance. The Director may require the owner or person in possession of such livestock may be required to dispose of them the animals at his own expense as prescribed by the Department, and in a manner suitable under the circumstances for accomplishing the purposes of this chapter.

(b) Failure to comply with any part of this article constitutes a violation.

(c) The Department shall act consistent with any existing enforcement authority concurrently or at a later date unless otherwise prohibited. Such authority includes, but is not limited to, the following:

(1) Denial, suspension, or revocation of a license, registration, certificate, permit, exception, or other indicia of authority issued by the Department;

(2) Civil or administrative penalties;

(3) Referral to the appropriate District Attorney or the Attorney General for criminal prosecution or other appropriate remedy; and,

(4) Reimbursement to the Department for any costs incurred due to any violation of this article.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9166, 9561, 9562, 9570, 9574, Food and Agricultural Code.

~~Section 1300.4. Revocation of Permit.~~

~~The Director may revoke any permit issued under this article for violation of any of the conditions specified therein, and may suspend such permit when he deems it necessary for the purposes of this chapter. Any person aggrieved by the actions of the Director may, within 30 days of such action, appeal to the Director for a hearing thereon. Such hearing shall be held, in so far as practicable, under the provisions of the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 5), provided, however, the filing of the appeal shall not stay the suspension or revocation.~~

Section 1300.11. Receipt of Shipment.

(a) This article applies to livestock shipped into California pursuant to Article 1 and also to livestock from within this State shipped to a consignee stated in ~~§~~Section 1300.1(e)(e).

~~(b) Each~~ Any person receiving ~~any~~ livestock which may be manifesting any disease condition specified in subsection (a) of ~~§~~Section 1300.1, or which were transported into California pursuant to a permit required by ~~§~~Section 1300.1, or which were required to be shipped pursuant to a permit specified in ~~§~~Section 1300.12 of this subchapter, shall:

(1) Notify the ~~Director~~ Department of the arrival of the shipment as specified on the permit;

(2) Segregate the animals in specifically marked pens or enclosures;

(3) Hold the animals for inspection when ~~required by this article, or specifically~~ required by the permit;

(4) Dispose of such animals by sale or otherwise only in accordance with this article; and

(5) Prepare and maintain records of the transaction involving the animals showing compliance with such requirements.

~~(b)(c)~~ The provisions of this section are not intended to apply to livestock not required to be transported under permit which were apparently normal and healthy when received for transportation to a premises where livestock are commercially held for feeding (feed lot) in preparation for slaughter.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9561, 9562, 9570, and 18851, Food and Agricultural Code.

Section 1300.12. Sale or Disposal.

(a) Livestock received under the provisions of ~~§~~Section 1300.11 shall be sold, transferred, transported, or otherwise disposed of only as follows:

~~(a)~~ (b) If the receiving consignee is a person operating a slaughter establishment under inspection by the ~~Director or Secretary~~ Department or United States Department of Agriculture, the livestock may be presented for inspection and disposition as provided pursuant to ~~§~~Sections

18721 and 18722 of the Food and Agricultural Code and comparable provisions of the Federal Meat Inspection Act. The animals shall be slaughtered only at times specified by the ~~Director~~ Department, for an establishment under State inspection, or by the ~~Secretary~~ United States Department of Agriculture for a Federally inspected establishment. Such livestock need not be held for other inspections unless specifically required by the ~~Director or Secretary~~ Department or United States Department of Agriculture; provided, however, records shall be prepared and maintained as required herein and such animals may not be sold, transferred, or transported to another person unless authorized by permit pursuant to this article;

~~(b)~~ (c) If the receiving consignee is a person licensed by the ~~Director~~ Department as a ~~pet food and horse slaughterer~~ to slaughter animals for pet food, the livestock may be used for food purposes in accordance with the limitations of the license after passing inspection by the ~~Director~~ Department at the establishment. Records shall be prepared and maintained as required herein and such animals shall not be sold, transferred, or transported to another person unless authorized by permit;

~~(c)~~ (d) If the receiving consignee is a renderer licensed by the ~~Director~~ Department, the livestock may be killed and rendered without holding such animals for inspection unless specifically required by the permit or other order of the ~~Director~~ Department. Records shall be prepared and maintained as provided herein and such animals shall not be sold, transferred, or transported to another person unless authorized by permit pursuant to this article;

~~(d)~~ (e) If the receiving consignee is a saleyard or public stockyard, the livestock shall be held for inspection and proof of its identity furnished to the ~~Director~~ Department. Such animals may not be sold, transferred, or transported to another person except under permit of the ~~Director~~ Department. Records shall be prepared and maintained as provided herein.

~~(e)~~ (f) If the receiving consignee is a person engaged in the business of buying or transporting animals the livestock may be disposed of only in accordance with this regulation to a slaughter establishment under inspection by the ~~Director~~ Department or ~~Secretary~~ United States Department of Agriculture, to a licensed pet food ~~and horse slaughterer~~, to a licensed renderer or to a saleyard or public stockyard. Records shall be prepared and maintained as required herein and such animals shall not be sold, transferred or transported to another person or destination unless authorized by permit.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9561, 9562, 9570, 18721, 18722, and 18851, Food and Agricultural Code.

#### Section 1300.13. Permit for Transfer or Sale of Livestock Manifesting Disease.

(a) Livestock which are received by a consignee operating a saleyard or public stockyard, may be sold, transferred or transported to another person specified in ~~Section~~ Section 1300.12 ~~(a), (b), or (c), or (d)~~ when authorized by a general permit of the ~~Director~~ Department. Such permit shall not require a separate approval for each transaction.

(b) Livestock which are received by a consignee operating a saleyard or public stockyard may be sold, transferred or transported to another person not specified in ~~Section~~ 1300.12 ~~(a), (b), or (c), or (d)~~ when authorized by a special permit of the ~~Director~~ Department. Such permit shall be signed by both the transferor and transferee and shall provide for the identification and segregation of the animals, a statement of intended use of the animals, notification to the ~~Director~~ Department of the movement and location of such animals, and the preparing and maintaining of pertinent records.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9561, 9562, 9570, and 18851, Food and Agricultural Code.

#### Section 1300.14. Retention of Documents.

~~(a) Records required by this subchapter to be prepared and maintained shall be maintained for a period of six months~~ two (2) years after the date of receipt of the animals and shall be ~~exhibited on the demand of any peace officer or~~ made available to any agent of the Department.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Section 18727, Food and Agricultural Code.

#### Section 1300.15. Violations.

~~(a) Any owner or person in possession of livestock sold, transferred, or transported in violation of the permit requirement of Section 1300.12, are a public nuisance. The Director may require the owner or person in possession of such animals may be required to dispose of them the animals at his own expense as prescribed by the Department, and in a manner suitable under the circumstances for accomplishing the purposes of this chapter.~~

(b) Failure to comply with any part of this article constitutes a violation.

(c) The Department shall act consistent with any existing enforcement authority concurrently or at a later date unless otherwise prohibited. Such authority includes, but is not limited to, the following:

(1) Denial, suspension, or revocation of a license, registration, certificate, permit, exception, or other indicia of authority issued by the Department;

(2) Civil or administrative penalties;

(3) Referral to the appropriate District Attorney or the Attorney General for criminal prosecution or other appropriate remedy; and,

(4) Reimbursement to the Department for any costs incurred due to any violation of this article.

NOTE: Authority cited: Section 407, Food and Agricultural Code. Reference: Sections 9166, 9561, 9562, 9570, 9574, Food and Agricultural Code.

**DEPARTMENT OF FOOD AND AGRICULTURE  
Animal Health Branch**

**ADDENDUM TO THE INITIAL STATEMENT OF REASONS REGARDING THE ORIGINALLY  
PROPOSED REGULATION TEXT**

The Department of Food and Agriculture (Department) is making available to the public and adding to the rulemaking file this Addendum to the Initial Statement of Reasons regarding the originally proposed regulation text, which was noticed for a 45-day public comment period ending April 8, 2013. The purpose of this addendum is to further clarify the intent of the original proposal as shown below in *italics*.

SUBJECT MATTER OF PROPOSED REGULATIONS

Diseased Animals

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL

The Department of Food and Agriculture (Department), Animal Health Branch, proposes to make amendments to various sections of Article 1 and Article 2 of Chapter 7, Division 2, Title 3 of the California Code of Regulations (CCR), for the purpose of clarifying and updating existing practices and procedures.

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

*Pursuant to these codes, the State Veterinarian may establish the requirements for importing diseased livestock into the State that could or may pose a significant risk to other animals or humans, including an introduction of harmful animal products into the human food chain. At the Federal level, the Code of federal Regulations (CFR) specifies requirements for the interstate movement of animals having diseases. Found at 9 CFR Part 71.3 as referenced in the proposed text, some diseased animals are prohibited from interstate movement, while others are conditionally allowed to move across state lines. This proposal does not duplicate or conflict with Federal regulations; the Department's proposed regulations are supplementary to the Federal interstate movement requirements for diseased animals.*

*The intent of this proposal is to ensure proper movement of diseased animals into and within the State, and to ensure the proper maintenance of diseased animal within California up until the time of their disposal, and including any product uses.*

The Department proposes to amend the article heading of Article 1 to better define the purpose of the Article; amend section 1300 to update references to the Code of Federal Regulations (CFR); amend section 1300.1 (Permit for Transportation of Diseased Animal into California) to reflect current practices for diseased animals entering the State; repeal section 1300.2 (Verification of

Shipments Under Permit) for organizational purposes; amend section 1300.3 (Violations) and repeal section 1300.4 (Revocation of Permit) for technical and organizational purposes. Additionally the Department, in Article 2, proposes to amend section 1300.11 (Receipt of Shipment), section 1300.12 (Sale or Disposal), section 1300.13 (Permit for Transfer or Sale of Livestock Manifesting disease), section 1300.14 (Retention of Documents), and section 1300.15 (Violations) to establish clarity and conformity with current practices and for technical and organizational consistency.

#### Section 1300.1. Permit for Transportation of Diseased Animals into California.

Subsection 1300.1(a) makes changes to the outdated language style, changes the word “section” to lowercase, and updates the reference to the FAC for consistency and conformity with current wording within Title 3 of the CCR. These proposed changes do not change the intent of the subsection.

Subsection 1300.1(a)(1) deletes text pertaining to the transport of any livestock into the State, except under permit of the Department that is unable to walk normally or stand. As written, this subsection implies that it is acceptable to import into the State a nonambulatory animal; the current industry standard and accepted practice is to take immediate action to humanely euthanize an animal in this condition. The Department supports the ethical and humane treatment of all animals and does not authorize the importation of any animal that cannot walk or stand on their own. Further, an animal in this condition may have a potentially infectious or contagious disease; allowing such an animal to enter the State poses a substantial risk to California livestock. Therefore, the Department believes this subsection as currently stated is misleading and therefore proposes to delete (a)(1).

Subsection 1300.1(a)(1) through (9). The Department proposes to renumber subsections (a)(1) through (8) for organizational purposes. *The Department is also adding new subsection (a)(9) to provide for any other condition or disease as determined by the State Veterinarian that may pose a threat for the introduction to or spread of livestock conditions or diseases into the State. The Department finds it necessary to include this category to allow for emerging diseases, or to give a higher or lower priority to diseases or conditions as situations occur, for example, movement of livestock from other states where a disease threat has recently been discovered.*

Subsection 1300.1(b) deletes “applications” and adds “requests” for grammatical purposes and adds text allowing the public to request a permit via telephone, electronically, or by other means approved by the Department. Additionally, this subsection specifies that a person must request a permit before the animals are transported into California. This added language is necessary to ensure the public has authorization from the Department to bring the animals into the State and to clarify with the requesting party that the animals meet California’s entry requirements for diseased animals before the animals arrive.

Subsection 1300.1(c). The Department proposes to add subsection lettering of “(c)” to the existing paragraph for organizational purposes, and delete “thereof” for consistency and conformity with current wording within Title 3 of the CCR. Subsection (c)(4) clarifies the text by adding “veterinarian or livestock” and deletes “veterinary” for clarity. A veterinary inspector could be considered a veterinarian and/or a livestock inspector, which is unclear as currently stated. The proposed change clarifies job classification titles currently used in the Department’s Animal Health Branch.

*The Department is also deleting some of the text from the last sentence of this subsection as the text is no longer necessary. Pursuant to Title 9 CFR, Part 71.3 as proposed in Section 1300, animals having specified diseases are prohibited from crossing state lines [(9 CFR 71.3(a) and (b)]. Further, CFR allows interstate movement of animals having specified diseases, provided their movement is in accordance with the movement requirements of the CFR for the specific disease condition (9 CFR 71.3 (c); when the movement of the diseased animal meets specified requirements (under quarantine or kept segregated from other animals); or when the movement of livestock is for a particular purpose (moving interstate for immediate slaughter.) Therefore, the CFR, allows the interstate movement of diseased animals when they meet specific requirements. Because diseased animals are allowed to move interstate pursuant to the CFR, the Department believes it is necessary to delete text from the last sentence of subsection (4) which requires the Federal or State veterinarian or livestock inspector, or accredited veterinarian issuing/signing the certificate to acknowledge the animals do not appear or are not known to be affected with a contagious disease. This phrase is redundant and should be removed from the text as it conflicts with what is allowed pursuant to the CFR.*