

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

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

NOTICE IS HEREBY GIVEN of the following document added to the rulemaking file pursuant to Government Code sections 11346.8(d), 11346.9(a)(1) and 11347.1: "Addendum to the Initial Statement of Reasons" to provide the rationale for the text as modified and to clarify specified changes to the regulation text. The document pertains to the regulatory action as described above [*California Regulatory Notice Register* on August 30, 2019, Notice File No. Z2019-0820-01, Register 2019, No. 35-Z].

Written comments regarding the original proposal: The written comments received by the Department for this proposal during the initial 45-day public notification period which began on August 30, 2019 and ended on October 15, 2019, remain in the Department's rulemaking file.

Written comments regarding the modified text and the document added to the rulemaking file: If any person wishes to comment on the proposed modifications to the text or to the document added to the rulemaking file, the written comment must be submitted to the contact person named in this notice beginning April 8, 2020 and ending April 23, 2020. The written comments are to be restricted to the recent modifications as shown in the attached regulatory text and/or to the document added to the rulemaking file. The Department is not required to respond to comments received in response to this notice on other aspects of the proposal. All written comments received by April 23, 2020, which pertain to the indicated changes will be reviewed and responded to by Departmental staff as part of the compilation of the rulemaking file.

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

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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: April 1, 2020



Nancy Grillo, Associate Analyst

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

Subject Matter of Proposed Regulation

Informal Hearings

Sections Affected for Modified Text

Sections 1310, 1310.1, 1310.2, 1310.3 and 1310.4.

Statement of Factual Basis and Rationale

The Department originally noticed this proposal for a 45-day public comment period which ended on October 15, 2019. The Department is now publishing the modified text for 15 days along with this Addendum to the Initial Statement of Reasons.

Section 1310. Scope of Coverage.

Subsections (b)(1), (b)(3), (b)(6), and (b)(7): The Department is revising the formatting of these subsections to align with the formatting in the surrounding subsections.

Subsection (b)(5): The Department is making a change to include “Division 11” in the subsection to provide a more specific reference for clarity purposes and for consistency with the format of the regulation text.

Note portion: The Department is making a formatting change to the reference citations to provide more specific references to the Code in order to align with the citations included in section 1310.

Section 1310.1. Filing Deadlines and Procedures.

Subsection (e): The Department is amending this section to add clarifying language that untimely requests for an informal hearing shall be denied unless good cause is provided. Good cause will be evaluated by the Department on a case by case basis. The intent of this section is to make the informal hearing process accessible to people and to not prevent the Department from accepting untimely requests under unusual or extraordinary set of circumstances.

Note portion: The Department is revising the reference note to delete the reference to Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, which pertains to formal hearings. This citation is being removed because this section applies only to informal hearings, which is covered in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Department is also revising the formatting of the reference citation to align with the formatting used in the surrounding sections.

Section 1310.2. Informal Hearing Schedule and Notification.

Subsection (b): The Department is providing further rationale for the requirement that at least 10 business days prior to the hearing, the Department shall provide a notice of the informal hearing to the respondent. This time frame will allow the Department the necessary time to prepare the hearing notice and send it to the respondent within normal State business days, excluding weekends and holidays. This time frame will also ensure that the public has advance notice of the hearing in order to make any necessary preparations for the hearing. As specified in regulation section 1310.1(b), a respondent must submit their initial written request for an informal hearing to the Department within 30 days from the date of the receipt of the notice of adverse determination. The Department believes this is a reasonable time frame for a respondent to prepare and submit their request for an informal hearing to the Department. After that 30-day time period, the Department has 30 days in which to schedule the hearing in accordance with regulation section 1310.2(a). The Department believes this is adequate time in which to calendar the informal hearing for a respondent. The Department then has at least 10 business days in which to inform the respondent of the details of the hearing pursuant to section 1310.2(b) which the Department believes is an adequate time to notify the respondent. Business days were chosen instead of calendar days to provide extra time for both the Department and the respondent to prepare and schedule the informal hearing over weekends and holidays.

Subsection (c): The Department is making a clarifying change in that the Department will send the notice of an informal hearing to the respondent's address of record with the Department or as provided by a driver's license record obtained from the Department of Motor Vehicles. This section is needed in instances where the address of record with the Department is not current for the registrant or licensee. In such cases, the Department's investigators contact the Department of Motor Vehicles for the address of record on file with that office in order to provide a respondent with the notice of the informal hearing.

Subsection (e): The Department is making a nonsubstantive grammatical revision to align the text with the Initial Statement of Reasons.

Note portion: The Department is revising the reference note to delete the reference to Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, which pertains to formal hearings. This citation is being removed because this section applies only to informal hearings, which is covered in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Department is also revising the formatting of the reference citation to align with the formatting used in the surrounding sections.

Section 1310.3. Conduct of Informal Hearings.

New subsection (f): Language is being reinstated to clarify how the Department shall serve the decision on a respondent. The Department will mail it to the respondent's address or, if available, by electronic mail. The Department believes that both options are viable to ensure the respondent receives the decision in a timely manner. Personal service and notification via facsimile have been deleted from this subsection as not viable options. Personal service is not considered viable option because there may be delays if no one is at the address to receive the notice. Facsimile

notification is not a viable option because there may be no one at the location to receive the notification and it may get lost or accidentally deleted if the machine is not in working order. The Department believes that serving the notice by mail or electronic mail is the most effective and expedient way to communicate with a respondent.

Re-letter subsection (f) to read (g): This change is being made for consistency with the subsection designations in section 1310.3.

Note portion: The Department is revising the reference note to delete the reference to Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, which pertains to formal hearings. This citation is being removed because this section applies only to informal hearings, which is covered in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Department is also revising the formatting of the reference citation to align with the formatting used in the surrounding sections.

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

Subsection (a): The Department is making a minor wording change for clarity purposes regarding the holding of an “animal or animal product” for consistency with the heading for the section. The text was also amended to include the ceasing of business operations and the Department is now deleting that text because it is unnecessary. The ceasing of business operations is not covered in the reference citations for the section. Details of the violation or adverse determination is on the notice itself and not a part of the regulation text.

Subsection (b): This subsection was moved from existing section 1310.1. This subsection was amended to change the original time frame of a 72-hour period to three business days for a respondent to submit a request for an informal hearing. The Department believes the time frame is reasonable when a matter might involve the holding of live animals or perishable meat or dairy food products. The minor change to include business days was done in order to allow for extra time over a weekend or holiday. This time frame adequately balances the Department’s interest in prompt action while still providing the respondent with time to prepare the request for an informal hearing. This time period is also modeled after the time period to request a hearing regarding emergency cannabis orders in accordance with Title 3, section 8604, of the California Code of Regulations.

Subsection (d): This subsection was moved from existing section 1310.2 and the text was amended to change the 72-hour period to three business days in which the informal hearing shall commence. The Department believes the time frame is reasonable when a matter might involve the holding of live animals or perishable meat or dairy food products. The minor change to include business days was done in order to allow for extra time over a weekend or holiday. This time frame adequately balances the Department’s interest in prompt action while still providing the respondent with time to prepare for the informal hearing.

Subsection (e): This section removes unnecessary wording for clarity purposes to make the subsection easier to read.

Note portion: The Department is revising the reference citations to delete the reference to hold orders that may also involve a quarantine order. This is because to appeal a hold order in conjunction with a quarantine has separate procedures under regulation sections 1301, et seq. The intent of these informal hearing regulations is for alleged violations that do not involve a quarantine but may involve hold orders dealing with loss or theft of cattle and determining ownership. Also, the Department is deleting the reference to Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, which pertains to formal hearings. This citation is being removed because this section applies only to informal hearings, which is covered in Article 10 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The Department is also revising the formatting of the reference citation to align with the formatting used in the surrounding sections.

**DEPARTMENT OF FOOD AND AGRICULTURE
ANIMAL HEALTH AND FOOD SAFETY SERVICES
PROPOSED REGULATIONS – INFORMAL HEARINGS
MODIFIED TEXT**

LEGEND FOR MODIFIED TEXT

Added text is shown in double underline.
Deleted text is shown in ~~double-strikeout~~.

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

Any written comments must address only the modified text.

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

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

Section 1310. Scope of Coverage.

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

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

- ~~(1) Importation requirements for horses or other Equidae pursuant to section 9641.5.~~
- ~~(2) Brucellosis vaccination requirements pursuant to sections 10341, 10342 and Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5.~~
- ~~(3) Importation requirements for cattle pursuant to section 10610.~~
- ~~(4) Importation requirements for swine pursuant to section 10721.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: Authority cited: Section 407, Food and Agricultural Code; and Section 11400.20, Government Code. Reference: ~~Sections 9166, 9641.5, 10341, 10342, 10610, 10721, 16101, 16151, 16152, 16153, 16154, 16441, 16501, 16521, 16524, 16525, 16901, 16902, 16903, 16905, 16908, 17042, 17043, 17045, 17061, 17062, 17092, 17121, 17122, 17551, 17552, 17553, 17951, 18982, 18983, 18991, 19001, 19002, 19310, 19310.5, 19310.7, 19311, 19312, 19313, 19313.1, 19313.5, 19314, 19315, 19316, 19317, 20222, 20251, 20604, 20605, 20606, 20607, 20904, 20906, 21051.5, 21052, 21058, 21060.7, 21062, 21064, 21066, 21081, 21082, 21172, 21173, 21174, 21175, 21204, 21205, 21208, 21231, 21232, 21236, 21237, 21238, 21281, 21281.5, 21282, 21283, 21283.5, 21285, 21288, 21288.5, 21455, 21456, 21457, 21458, 21459, 21702, 21702.1, 21703, 21705, 21707, 21708, 21709, 21710, 22001, 22006, 22008, 22009, 22010, 23251, 23801, 23981, and 24007, Food and Agricultural Code; and Article 4 (commencing with section 10351), Chapter 3, Part 2, Division 5, Food and Agricultural Code; Chapter 8 (commencing with section 24000), Division 11, Food and Agricultural Code; Article 2 (commencing with section 32731), Chapter 2, Part 1, Division 15, Food and Agricultural Code; and Article 4 (commencing with section 32761), Chapter 2, Part 1, Division 15, Food and Agricultural Code Division 5 (commencing with section 9101), Division 8 (commencing with~~

section 16001), Part 3 ~~Division 9~~ (commencing with section 18201) of Division 9, Division 10 (commencing with section 20001), Chapter 8 ~~Division 11~~ (commencing with section 24000) of Division 11, Division 12 (commencing with section 24501), and Division 15 (commencing with section 32501), Food and Agricultural Code.

Section 1310.1. Filing Deadlines and Procedures.

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

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

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

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

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

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

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

Section 1310.2. Informal Hearing Schedule and Notification.

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

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

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

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

(c) The notice of an informal hearing shall be sent to the address of the person charged as provided by any application, license, registration, certification, or permit on record with the Department and/or as provided by a driver's license record obtained from the Department of Motor Vehicles.

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

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

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

Section 1310.3. Conduct of Informal Hearings.

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

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

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

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

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

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

~~(4) (e) Subject to the provisions of Government Code section 11425.50, ~~t~~The decision of the hearing officer shall be in writing, ~~with a brief statement of the conclusion and findings to~~~~

~~support the conclusion. The decision may be handwritten~~ issued within 30 days after the conclusion of the hearing, and shall be effective immediately upon issuance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[end]