

Quarantine of Animals and Animal Products

Sections Affected

IN TITLE 3, CALIFORNIA CODE OF REGULATIONS DIVISION 2, CHAPTER 7, ARTICLE 3

ADOPT SECTIONS 1301, 1301.1, 1301.2, 1301.3, 1301.4, 1301.5, 1301.6, 1301.7, 1301.8,
1301.9

TO READ AS FOLLOWS:

1301. Definitions.

- a) "Animal" means any animal, livestock, or domestic animal, including poultry and fish, which is kept, maintained, held, or raised in captivity.
- b) "Poultry" means any domesticated fowl and any wild fowl or bird which is kept, maintained, held, or raised in captivity.
- c) "Population of animals" means any quantity of animals, including one animal.
- d) "Animal Product" means any edible or inedible product or products made from, by, or with an animal, any part of an animal, or animal by-product.
- e) "Condition" means any illness, disease, infection, pathogen, contagion, toxin, bacteria, virus, prion, or any other material or factors affecting a population of animals or animal product.
- f) "State Veterinarian" means the State Veterinarian or his designated representative.
- g) "Hold" means to prevent or restrict movement of a population of animals or animal product from the premises where it is located.
- h) "Move" means to relocate a population of animals or animal product from the premises where it is located, including the recall of an animal product already shipped.
- i) "Segregate" means to separate, and maintain separately, a population of animals or animal product from another population of animals or animal product.
- j) "Isolate" means to confine a population of animals or animal product in an area away from other populations of animals or animal products.
- k) "Treat" means to test, clean, decontaminate, disinfect, dip, medicate, vaccinate, or destroy a population of animals, animal product, and/or premises, equipment, and other materials that may have been contaminated by the condition affecting the population of animals or animal product.
- l) "Destroy" means to kill a population of animals or destroy or otherwise render an animal product inedible or unusable by a method deemed appropriate for the condition as determined by the State Veterinarian.
- m) "Quarantine" means the designation of host and/or at-risk population(s) of animals, humans, and/or animal products, wherever located, for appropriate action as determined by the State Veterinarian, pursuant to this Article.
- n) "Notice of Required Action" or "Notice" means a written notice by the State Veterinarian directing an owner to hold, move, prohibit entry into this State, segregate, isolate, treat, or destroy a population of animals or animal product.

o) “Owner” means the legal owner of a population of animals or animal product, the legal owner’s authorized representative, any person with immediate control of a population of animals or animal product, or any person with immediate control over premises where a population of animals or animal product is or has been located.

p) “Epidemiology” means the study of the causes, distribution, and control of diseases in a population of animals or animal product.

q) “Standard epidemiological practice” means practices accepted as standard in veterinary medicine, including but not limited to official screening tests or the professional judgment of the State Veterinarian.

r) “Credible scientific research” means research published in a peer-reviewed publication and not refuted by subsequent experiment or evidence.

s) “Epidemiological investigation” means an investigation to determine the risks or presence of a condition affecting a population of animals or animal product, conducted using recognized or standard epidemiological practices, including but not limited to sample collection and laboratory testing.

t) “Plan of Action” means any procedure or procedures to control or eliminate a condition, or risks of a condition, affecting a population of animals or animal product, or to protect the health and safety of the citizens or animals of this State.

u) “Sample” means any specimen or portion necessary to establish a finding of fact in any circumstance subject to an application of this Article. The size and nature of the sample shall be determined by current standard epidemiological practice for the condition being investigated.

v) “Presumptive diagnosis” means a preliminary diagnosis.

w) “Confirmatory diagnosis” means a diagnosis confirmed by confirmatory test results or other diagnostic criteria.

x) “Eradication program” means a prescribed course of action, set forth in State or Federal statute or regulation, for the purpose of eliminating or controlling a particular condition.

y) “Hearing Officer” means any person designated as a Hearing Officer by the State Veterinarian.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9502, 9503 of the Food and Agricultural Code

1301.1. Notice of Required Action.

a) If the State Veterinarian imposes a Quarantine pursuant to Food and Agricultural Code section 9562, he shall issue a Notice of Required Action.

b) The Notice of Required Action shall be in writing and shall be personally served upon the owner. If an owner cannot be contacted within an epidemiologically appropriate period of time as determined by the State Veterinarian, the Department may carry out the action required by the Notice.

c) The Notice of Required Action shall contain the following information:

- 1) Notice that a Quarantine has been imposed and the reasons for the Quarantine.
- 2) Date and time of issuance of the Notice.

3) Name of the owner of the population of animals or animal product subject to the Quarantine and the Notice.

4) Description of the population of animals or animal product subject to the Quarantine and the Notice.

5) Description and/or address of the premises where the population of animals or animal product is located.

6) The action required by the Notice.

7) The procedure to appeal the imposition of the Quarantine.

8) The signature and title of the person serving the Notice.

9) A location for the signature of the owner acknowledging receipt of the Notice.

d) Absence of a signature by the owner acknowledging receipt does not invalidate the Notice.

e) If the action required by the Notice is to hold a population of animals or animal product, the owner is prohibited from moving the population of animals or animal product from the premises.

f) If the action required by the Notice is to move a population of animals or animal product, including but not limited to relocation to another site or recall to the owner's premises of a population of animals or animal product already shipped, the owner shall move, to a location specified by the State Veterinarian, the population of animals or animal product no later than a date and time and by a method deemed appropriate for the condition as determined by the State Veterinarian. The location to which the population of animals or animal product is to be moved, and the date and time and method by which the population of animals or animal product is to be moved shall be specified on the Notice.

g) If the action required by the Notice is to segregate or isolate a population of animals or animal product, the owner shall segregate or isolate the population of animals or animal product no later than a date and time and by a method deemed appropriate for the condition as determined by the State Veterinarian. The date and time and method by which the population of animals or animal product is to be segregated or isolated shall be specified on the Notice.

h) If the action required by the Notice is to treat (other than to destroy) a population of animals or animal product, the owner shall treat the population of animals or animal product no later than a date and time and by a method deemed appropriate for the condition as determined by the State Veterinarian. The date and time and method by which the treatment is to be completed shall be specified on the Notice.

i) If the action required by the Notice is to destroy a population of animals or animal product, the owner shall cooperate with the State Veterinarian to destroy and dispose of the remains of the population of animals or animal product no later than a date and time and by a method deemed appropriate for the condition as determined by the State Veterinarian. The date and time and method for destruction and disposal shall be specified on the Notice.

1) The action may be carried out before compensation is tendered pursuant to section 1301.9.

2) If the owner destroys or disposes of the population of animals or animal product, the owner shall submit by mail to the State Veterinarian a written declaration confirming that the population of animals or animal product was destroyed and the method of destruction and disposal no later than two (2) calendar days after the action is completed.

j) If the action required by the Notice is to cease efforts to cause a population of animals or animal product to enter the State, the owner is prohibited from bringing, or causing to be brought, the population of animals or animal product into this State.

k) The State Veterinarian may issue a subsequent Notice at any time, modifying any or all of the provisions of an earlier Notice; provided however that:

1) if an informal hearing has already been conducted and the imposition of Quarantine has been upheld, the owner may not appeal and request another informal hearing based on the subsequent Notice.

2) if an informal hearing was not requested based on any earlier Notice, the owner may appeal and request an informal hearing based on the subsequent Notice, but only if the subsequent Notice requires that a population of animals or animal product be destroyed and the previous Notice required a different action to be taken.

l) The State Veterinarian may inspect a population of animals or animal product which are subject to a Quarantine, or the premises where they are or have been present, in order to ascertain compliance with the Notice of Required Action or for any other purpose related to the Quarantine.

m) If an owner fails to comply with a Notice of Required Action or is otherwise in violation of the Quarantine, the Department may take such action as is required to effect the action required in the Notice, including but not limited to taking custody and/or control of the population of animals or animal product and causing the action ordered in the Notice to occur.

n) If the Quarantine imposed by the State Veterinarian designates a geographic region containing multiple owners which shall be subject to the Quarantine, service of the Notice of Required Action may be effected by publication in a newspaper of general circulation in or near the designated area, instead of by personal service on each owner. If service of the Notice is effected by publication, the contents of the published Notice shall omit the matters specified in subsections (c)(3), (c)(8), and (c)(9) above.

o) The Quarantine shall remain in effect until a Release of Quarantine is issued by the State Veterinarian.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 263, 9502, 9503, 9531, 9561, 9562, 9570, 9563, 9565, 9566, 10061, 10102, 10324, 10326, 10327, 10386, 10404, 10781, 10921, 32731, 32741, 32742, 32743, 32761, 32765, 32766, 32767, 35928 of the Food and Agricultural Code; 11425.50, 11445.10 of the Government Code

1301.2. Appeal of Imposition of Quarantine.

a) The owner may appeal the imposition of the Quarantine and request an informal hearing by contacting Animal Health and Food Safety Services, California Department of Food and Agriculture, within 72 hours from the time the Notice of Required Action is served, or within a shortened time period deemed appropriate for the condition as determined by the State Veterinarian and as specified on the Notice. If the appeal is not timely submitted, the Department shall deny the request for hearing.

b) If the action required by the Notice is to hold, cease efforts to cause entry into the State, segregate, isolate, or treat (other than destroy) a population of animals or animal product, the Notice shall remain in effect during the appeal period and pending the outcome of the informal hearing.

c) If the action required by the Notice to move a population of animals or animal product, the State Veterinarian, in his sole discretion, may stay the Notice pending the outcome of the informal hearing; provided however that, if the Notice requires treatment also, that portion of the Notice shall remain in effect, unless expressly stayed by the State Veterinarian. The direction of the State Veterinarian to hold or move or treat pending the outcome of the informal hearing is not appealable.

d) If the action required by the Notice is to destroy a population of animals or animal product, the Notice shall be stayed pending the outcome of the informal hearing, but the population of animals or animal product must be held or moved, as directed by the State Veterinarian, during the stay. The direction of the State Veterinarian to hold or move pending the outcome of the informal hearing is not appealable.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9561, 10324, 10493, 10781, 10921, 32767 of the Food and Agricultural Code; 11425.50, 11445.10 of the Government Code

1301.3. Hearing Procedures.

a) If an appeal is received pursuant to the conditions set forth in section 1301.2, the hearing shall be held within 48 hours of receipt of the appeal.

b) Hearings shall be presided over and conducted by a Hearing Officer designated by the State Veterinarian.

c) The standard of proof to be applied by the Hearing Officer shall be the preponderance of the evidence.

d) The burden of proof shall be on the owner.

e) The only issue before the Hearing Officer shall be whether, when the State Veterinarian imposed the Quarantine, there was reason to believe, upon any basis reasonably supportable by standard epidemiological practice or credible scientific research, that a population of domestic animals or food product from animals had contracted, may carry, or is at risk from a condition that, without intervention, could transmit an illness that could kill or seriously damage other animals or humans, including, in addition to the original condition, those clinically plausible secondary illnesses, infections, pathogens, contagions, toxins, or conditions arising from the effects of the original. The appropriateness of the action(s) (including its time and place and method) required by the Notice is not before the Hearing Officer, but only whether or not there was an adequate basis for imposition of the Quarantine.

f) Hearings may be conducted by telephone, at the discretion of the Hearing Officer.

g) The decision of the Hearing Officer shall be in writing. The decision shall be in minute order form, containing only a brief statement of the conclusion and findings to support the conclusion. It may be handwritten.

h) The decision shall be issued within 24 hours after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.

i) The written decision shall be served on the owner either by personal service or, if available, by facsimile transmission.

j) The Hearing Officer's decision shall be effective immediately upon first articulation under either subsection (g) or (h) above and shall be final and not appealable to the Secretary or any other officer of the Department.

k) The owner may challenge the Hearing Officer's decision by filing a writ of administrative mandamus in the appropriate court pursuant to Code of Civil Procedure section 1094.5.

l) Hearings shall be recorded by audio tape.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9561, 10324, 10493, 10781, 10921, 32767 of the Food and Agricultural Code; 11425.50, 11445.10 of the Government Code

1301.4. Epidemiological Investigation

a) An epidemiological investigation shall be conducted by the State Veterinarian after he has imposed a Quarantine, except as specified in subsection (e). The State Veterinarian may use the findings of a federal investigation as the basis for any decision with regard to a Quarantine, Notice of Required Action, and/or plan of action.

b) The investigation shall seek to determine the following:

1) the condition affecting the population of animals or animal product.

2) the origin of the condition.

3) the extent of the exposure to the condition.

4) an appropriate plan of action, including but not limited to a subsequent Notice of Required Action.

c) All laboratory tests conducted under this Article shall be conducted in laboratories of the California Department of Food and Agriculture, University of California School of Veterinary Medicine, the United States Department of Agriculture, an approved County Veterinarian's laboratory, or by other such persons authorized by the State Veterinarian to conduct the particular tests needed.

d) Upon reasonable belief that any sample taken may have been contaminated, spoiled, collected inappropriately, or is otherwise insufficient for a valid laboratory result, the State Veterinarian may take such action as he deems appropriate, including but not limited to requiring the submission of another sample for laboratory testing.

e) If the action required by the Notice is to cease efforts to cause a population of animals or animal product to enter the State and the owner ceases efforts to cause the entry into this State of that population of animals or animal product, the State Veterinarian may, but is not required to, conduct an epidemiological investigation.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9531, 9561, 10151, 10324, 10326, 10354, 10384, 10493, 10781, 10921, 32731, 32761.5, 35928 of the Food and Agricultural Code

1301.5. Sample Collection.

a) All samples for laboratory testing shall be collected by designated representatives from federal, state or county governments, or other persons authorized by the State Veterinarian to collect samples for testing purposes under this Article.

b) The State Veterinarian shall determine what samples shall be collected, including but not limited to the type, number, amount, and size or volume.

c) A duplicate of each sample may be taken and, if taken, shall be collected at the same time as the official sample.

1) If taken, a duplicate of each sample shall be left with the owner, except as specified in subsections (g) and (h).

2) The owner's signature shall be requested on a form acknowledging receipt or refusal of duplicate samples.

3) If the owner refuses to sign the form, the Department's representative shall note on the form whether the duplicate sample was accepted or refused, that the owner refused to sign the form, and the Department's representative shall sign the form.

d) Each sample collected shall be appropriately identified with the identification number of the animal or animal product, if any, the date and time collected, the person collecting the sample, and the premises address where collected. If an identification number of the animal or animal product is not available, then a detailed description of the animal or animal product and its location on the premises, which is adequate to accurately identify the specific animal(s) or animal product, shall be used.

e) Sample integrity and usefulness shall be safeguarded by sealing and packaging individual samples in containers appropriate for the type of sample collected, preventing direct contact with contaminants such as refrigerants or other samples, and sealing the container in which the individual samples are transported.

f) A Sample Submission and Chain of Custody form shall accompany each sample throughout the shipping and laboratory testing process.

g) Subsequent testing pursuant to an existing eradication program shall not require a duplicate of each sample to be left with the owner unless the eradication program so requires.

h) A duplicate of each sample shall not be left with the owner if, in the State Veterinarian's judgment, the suspected condition is so contagious or potentially dangerous that possible mishandling of the sample may expose a population of animals, animal product, or citizens of the State to the contagious or potentially dangerous condition.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9531, 9561, 10151, 10324, 10326, 10354, 10384, 10493, 10781, 10921, 32731, 32732, 32733, 32761.5, 35928 of the Food and Agricultural Code

1301.6. Release of Quarantine.

The State Veterinarian shall issue a Release of Quarantine under either of the following

circumstances:

a) The confirmatory laboratory testing of samples collected from the suspected host population disproves the presumptive diagnosis, **and** no other condition is identified.

b) The host population of animals or animal product tests negative upon re-testing, **and** the State Veterinarian determines that the condition is controlled or eradicated and that the host population of animals or animal product no longer poses a threat to the animals and/or citizens of the State of California.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9531, 9561, 9563, 9567, 10102, 10324, 10324, 10781, 10921, 35928 of the Food and Agricultural Code

1301.7. Reportable Conditions

a) Licensed veterinarians, any persons operating an animal disease diagnostic laboratory, or their authorized agents, shall comply with Food and Agricultural Code section 9101 and shall report any of the diseases set forth in Title 3, California Code of Regulations, section 796, as required by that section.

b) If the Department determines that a reportable condition was known or discoverable using standard tests, but not reported as required, the Department shall report this failure to the appropriate government agency.

c) Failure to comply by any person is a basis for imposition of penalties pursuant to this Article.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 263, 9101, 9561, 9574, 9591, 9595, 10324, 10781, 10921 of the Food and Agricultural Code

1301.8. Violations.

a) It is a violation of this Article if:

1) The owner fails to comply with any Notice of Required Action served upon him, or interferes with the State Veterinarian in connection with the Quarantine.

2) The owner refuses to permit or interferes with an inspection by the State Veterinarian of a population of animals or animal product, or the premises where they are or have been present, in order for the State Veterinarian to ascertain compliance with a Notice of Required Action or for any other purpose related to the Quarantine. Such refusal shall constitute a violation of the Quarantine.

3) The owner fails to cooperate with, or otherwise interferes with, the State Veterinarian in conducting the epidemiological investigation.

4) The owner fails to complete, or cooperate with, the epidemiological investigation, plan of action, or eradication program determined by the State Veterinarian to control or eliminate the condition, or otherwise interferes with the State Veterinarian in completing the plan of action or

eradication program.

5) A licensed veterinarian, any person operating an animal disease diagnostic laboratory, or their authorized agents, fails to report any of the diseases set forth in Title 3, California Code of Regulations, section 796 as required by that section.

b) Violation of this Article constitutes a basis for the Department to pursue existing remedies. Pursuing any one remedy does not preclude the Department from pursuing any of the remaining remedies concurrently or at a later date unless otherwise prohibited by law.

c) Existing remedies include but are not limited to:

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; and

3) Referral to the appropriate District Attorney or the Attorney General for criminal prosecution or other appropriate remedy.

4) Reimbursement of the Department for any cost incurred while acting pursuant to section 1301.1(m) above or due to any other violation of this Article.

Authority: Sections 407, 9562, 9570 of the Food and Agricultural Code

Reference: Sections 9561, 9563, 9566, 9574, 9591, 9595, 9691, 9692, 9693, 9694, 9695, 9696, 9698, 9700, 10105, 10324, 10387, 10781, 10921, 32742 of the Food and Agricultural Code

1301.9. Compensation.

Any compensation of the owner of a population of animals or animal product destroyed pursuant to Food and Agricultural Code section 9562 shall be made pursuant to Food and Agricultural Code section 9592, subject to the limitation of section 9595. Contribution by the State of California toward payment of compensation shall be calculated pursuant to Food and Agricultural Code section 9593 but shall be subject to reasonable availability of resources to pay.

Authority: Sections 407, 9562, 9591, 9592 of the Food and Agricultural Code

Reference: Sections 9561, 9563, 9566, 9595, 9691, 9692, 9693, 9694, 9695, 9696, 9698, 9700, 10105, 10324, 10387, 10781, 10921, 32742 of the Food and Agricultural Code