

**POLICY MANUAL FOR INFORMAL HEARINGS  
ASSOCIATED WITH EGGS AND EGG PRODUCTS**

Egg producers and handlers must register with the California Department and Food Agriculture (hereinafter "CDFA") as required by Food and Agricultural Code section 27541. Under Food and Agricultural Code section 27561, CDFA is responsible for the enforcement of statutory and regulatory requirements associated with the production, handling, inspection, grading, transport, labeling and marketing of eggs and egg products, including the collection of assessments.

***Section 1: Scope of Coverage.***

(a) Any person, or his or her duly authorized representative, may contest a notice adverse determination and request an informal hearing as outlined in this article. The informal hearing proceedings pertain to any adverse determination based upon a violation of the provisions of the Food and Agricultural Code, sections 263, 27501 through 27673, and accompanying regulations, including, but limited, to, Title 3, California Code or Regulations, sections 1350 through 1358.5, associated with the production, handling, inspection, grading, transport, labeling and marketing of eggs and egg products.

***Section 2: Filing Procedures and Deadlines***

(a) The respondent may contest any adverse determination for any violation specified in Section 1 by requesting an informal hearing by written correspondence or facsimile to ATTN: Brandon Morrow, California Department of Food and Agriculture, Legal Office, 1220 "N" Street, Suite 400 Sacramento, California 95814, facsimile number (916) 653-1293.

(b) The respondent must submit a request for an informal hearing to the Department in writing within 30 days from the date of the notice of adverse determination. If the notice of adverse determination involves the placement of a hold, warning label or disposal order on eggs or egg products, pursuant to sections 27591 through 27600 of the

Food and Agricultural Code, the respondent must submit the request by mail or facsimile within 72 hours of the date of the notice of adverse determination.

(c) Failure to present a timely request for a hearing constitutes a waiver the respondent's right to contest the notice of an adverse determination. The Department shall deny the request for a hearing, if the request is not timely submitted by the respondent,

(d) If the notice of adverse determination involves the placement of a hold, warning label or disposal order on eggs or egg products, the notice of adverse determination shall remain in effect pending the outcome of the informal hearing and is not subject to appeal.

(e) The Department may elect to proceed with a formal hearing, which shall be conducted pursuant to Chapter 5 (commencing with section 11500), Part 1, Division 3, Title 2 of the Government Code.

### ***Section 3: Hearing Schedule***

(a) 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 involves the placement of a hold, warning label or disposal order on eggs or egg products, the Department shall schedule the hearing within 72 hours of the receipt of the request for an informal hearing, not including Saturdays, Sundays and holidays, unless the parties agree to an extension of time.

(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.

### ***Section 4: Hearing Notice***

(a) The Department shall provide an informal hearing notice to the respondent containing the following information:

- (1) Date, location, and time of the informal hearing;

- (2) Departmental contact information including applicable telephone and facsimile numbers;
- (3) Subject matter of the adverse determination;
- (4) A copy of the provisions of this policy manual; and,
- (5) Any other information or documentation relative to the adverse determination.

### ***Section 5: Hearing Officers***

(a) The Department, through the Division of Animal Health and Food Safety Services, shall create a list of hearing officers to adjudicate the hearings required by the provisions of this policy manual.

(b) The Department shall not select any employee of the Division of Animal Health and Food Safety Services to serve as a hearing officer.

### ***Section 6: Conduct of Hearings***

(a) If the Department elects to proceed with a formal hearing, 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 except as provided in this manual.

(1) The informal hearing shall be presided over and conducted by a hearing officer designated by the Department as provided in Section 5.

(2) 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) Hearings may be conducted by telephone at the discretion of the hearing officer subject to the provisions of Government Code section 11440.30.



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

(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.

(7) The hearing officer's decision shall be effective immediately upon first articulation under subsections (4), (5) and (6) hereinabove and shall be final.

(8) The respondent may appeal the hearing officer's decision by filing a petition for a writ of administrative mandamus in accordance with the provisions of the Code of Civil Procedure.

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