

DEPARTMENT OF FOOD AND AGRICULTURE
Animal Health Branch
PROPOSED REGULATIONS - EQUINE MEDICATION MONITORING PROGRAM

The Department of Food and Agriculture, Animal Health Branch, Equine Medication Monitoring Program, proposes the following changes to Chapter 6, (Drugging of Horses), Division 2 (Animal Industry) of Title 3 of the California Code of Regulations:

Amend section 1280.11 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1280.11. Fines and Penalties.

(a) Failure to comply with the provisions of this Chapter or Chapter 8 (commencing with section 24000) of Division 11 of the Food and Agricultural Code, and any regulations adopted pursuant to them, constitutes a violation punishable by a fine of not less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000). The Department shall use the provisions of this section to determine the violation class and amount of the penalty.

(b) For the purposes of this section, violation classes are designated as “serious,” “moderate,” and “minor” to establish maximum penalty amounts. Repeat violations may result in an escalation of violation class. Serious and moderate violations may be downgraded based upon the evidence, the factual circumstances, mitigating factors and the cooperation of the violator.

(1) “Serious.” Violations that cause significant performance enhancement of the equine or deceptive business practices that ~~involve the~~ include subsequent failure to comply with requests from the Equine Medication Monitoring Program representative, detection of a non-therapeutic use of a prohibited substance, repetitive use of repeated detections of therapeutic prohibited substances ~~and repetitive failure to comply with actions~~, the third (and subsequent) detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs), the third (and subsequent) detection of a permissible substance over the maximum detectable plasma level, and subsequent administration of a prohibited injectable substance within 12 hours of competition. Serious violations also include the third (and subsequent) offense of an event manager failing to register an event and the third (and subsequent) offense of an event manager failing to submit fees.

(A) The suspended individual is not permitted entry to the grounds of any registered event in the state of California during the suspension period. Event managers may not permit participation of a suspended individual in the registered event and event managers must

immediately notify the Department of a suspended individual's presence on the event grounds. Event managers who permit participation of a suspended individual are subject to a violation and civil penalty in accordance with Food and Agricultural Code sections 24007 and 24015(c).

(2) “Moderate.” Violations in which there is a potential for intermediate level of competitive harm ~~or repeated violations of permissible level of detection and initial prohibited therapeutic substance detection~~ that include initial failure to comply with requests from the Equine Medication Monitoring Program representative, initial detection of a prohibited therapeutic substance, second detection of a permissible substance over the maximum detectable plasma level, second detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs), and initial administration of a prohibited injectable substance within 12 hours of competition. Moderate violations also include the second failure of an event manager to register an event and the second failure of an event manager to submit fees.

(3) “Minor.” Violations that are unintentional and have minimal performance enhancing action in the competition, including the initial detection of a permissible substance over the maximum detectable plasma level and the initial detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs). Minor violations also include the first offense of an event manager failing to register an event and the first offense of an event manager failing to submit fees. The Department may issue a notice of warning for minor violations.

(c) Table “A” Equine Medication Monitoring Program Violations Matrix is to be used to establish the level of severity of a particular violation and the corresponding penalty range for “serious,” “moderate,” and “minor” violation classes.

TABLE A: EQUINE MEDICATION MONITORING PROGRAM VIOLATIONS MATRIX

Title 3, CCR Section	Description of the Violation	Minor	Moderate	Serious	Penalty
1280.1(c)(1)	Failure of Event Manager to Register Event at least 60 days in advance of the event – First Offense	X			Violations may be assessed at a minimum of \$100 up to \$500.
1280.1(c)(1)	Failure of Event Manager to Register Event at least 60 days in advance of the event – Second Offense		X		Violations may be assessed at a minimum of \$500 up to \$2,000.
1280.1(c)(1)	Failure of Event Manager to Register Event at least 60 days in advance of the event – Third Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000.
1280.1(c)(1)	Failure of Event Manager to Submit Fees within 15 days after the final day of the event – First Offense	X			Violations may be assessed at a minimum of \$100 up to \$500 plus civil penalties of 10% of the amount due plus interest rate of 1.5% per month.

1280.1(c)(1)	Failure of Event Manager to Submit Fees within 15 days after the final day of the event – Second Offense		X		Violations may be assessed at a minimum of \$500 up to \$2,000 plus civil penalties of 10% of the amount due plus interest rate of 1.5% per month.
1280.1(c)(1)	Failure of Event Manager to Submit Fees within 15 days after the final day of the event – Third Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000 plus civil penalties of 10% of the amount due plus interest rate of 1.5% per month.
1280.7(b)	Failure to Submit Horse for Sample Collection – First Offense		X		Violations may be assessed at a minimum of \$500 <u>\$1,000</u> to \$1,000 <u>\$2,000</u> .
1280.7(b)	Failure to Submit Horse for Sample Collection – Second Offense			X	Violations may be assessed at a minimum of \$2,000 <u>\$5,000</u> to \$10,000.
1280.7(b)	Failure to Submit Horse for Sample Collection – Third Offense			X	Violations may be assessed at a minimum of \$2,000 to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to one year.
1280.8(b)	Detection of a Non-Therapeutic Prohibited Substance – First Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000 <u>\$5,000</u> and possible suspension of the owner, trainer or both from competition for 90 days to one year.
1280.8(b)	Detection of a Non-Therapeutic Prohibited Substance – Second Offense			X	Violations may be assessed at a minimum of \$2,000 <u>\$5,000</u> up to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to one year.
1280.8(c)(1)	Detection of a Therapeutic Prohibited Substance – First Offense		X		Violations may be assessed at a minimum of \$500 <u>\$1,000</u> up to \$2,000.
1280.8(c)(1)	Detection of a Therapeutic Prohibited Substance – Second Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to one year.
1280.8(c)(3)	Detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample – First Offense	X			Violations may be assessed at a minimum of \$100 up to \$500.
1280.8(c)(3)	Detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample – Second Offense		X		Violations may be assessed at a minimum of \$500 <u>\$1,000</u> up to \$2,000.

1280.8(c)(3)	Detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample – Third Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000.
1280.8(c)(4)	Detection of a permissible substance over the maximum detectable plasma level – First Offense	X			Violations may be assessed at a minimum of \$100 up to \$500.
1280.8(c)(4)	Detection of a permissible substance over the maximum detectable plasma level – Second Offense		X		Violations may be assessed at a minimum of \$500 <u>\$1,000</u> up to \$2,000.
1280.8(c)(4)	Detection of a permissible substance over the maximum detectable plasma level – Third Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$10,000.
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – First Offense	✕	<u>X</u>		Violations may be assessed at a minimum of \$100 <u>\$1,000</u> up to \$500 <u>\$2,000</u> .
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Second Offense		✕	<u>X</u>	Violations may be assessed at a minimum of \$500 <u>\$2,000</u> up to \$2,000 <u>\$5,000</u> .
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Third Offense			X	Violations may be assessed at a minimum of \$2,000 <u>\$5,000</u> up to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to one year.

Note: Authority cited: Sections 407 and 24013. Food and Agricultural Code. Reference: Sections 24002, 24003, 24004, 24005, 24006, 24007, 24008, 24009, 24010, 24011, 24011.6, 24012 and 24015, Food and Agricultural Code.