

TITLE 3. FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (herein after referred to as "Department") is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person **beginning September 18, 2020 and ending on November 2, 2020**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 407, Food and Agricultural Code (FAC), and to implement, interpret, or make specific sections 24011, 24011.6, 24012, and 24015 of said Code, the Department is proposing to make changes to sections 1280.1, 1280.2, 1280.3, 1280.8, and 1280.11 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Chapter 8 (commencing with section 24000) of Division 11 of the FAC authorizes the Department to ensure the integrity of public horse shows, horse competitions, and horse sales through the control of performance and disposition enhancing medications while limiting their permitted therapeutic usage. The Department's Animal Health Branch, Equine Medication Monitoring Program (EMMP) enforces the requirements of these sections of law.

Existing section 24011 of the FAC makes it illegal to show, compete, or offer for sale a horse that has received a prohibited substance unless specified requirements have been met and facts requested are submitted to the Department, as specified.

Existing section 24011.6 of the FAC authorizes the therapeutic administration of a permissible substance before and during all events except public auctions, provided the dosage does not exceed limits or result in levels exceeding maximum permissible detectable levels as established by regulation.

Existing section 24012 of the FAC requires an event manager to charge, collect, and remit fees to the Department for events registered with the Department and establishes the authority to set the applicable fees by regulation.

Existing section 24015 of the FAC requires every equine event, as defined, to be registered with the Department and requires event managers to register events, as specified, and establishes penalties for failing to register.

Existing section 1280.1 of Title 3 of CCR requires event and public horse sale managers, as defined, to register equine events and sales, and to assess and remit fees collected to the Department, as specified, on forms incorporated by reference in the regulation text. The section also requires event exhibitors or consignors to complete and file with the event manager, a drug declaration form or compatible document, when any horse has received a prohibited substance for therapeutic reasons, as specified.

Existing section 1280.2 establishes fee amounts event managers assess, collect, and remit to the Department.

Existing section 1280.8 refers to the required use of the drug declaration form when a licensed veterinarian authorizes the administration of a therapeutic drug or medicine, as specified.

Existing section 1280.11 establishes fines and penalties for violations of the chapter.

This proposal amends section 1280.1 to repeal the existing three (3) program forms used for the registration and assessment of equine events and sales, and for the reporting of medications used before and during equine events and sales which are currently incorporated by reference and identified by title, form number, and revision date. The Department is proposing to amend the language to replace the forms incorporated by reference with forms identified by title and form number and describe the substantive requirements and contents of each form in proposed sections 1280.1, 1280.2, and 1280.3. The Department also proposes to amend sections 1280.8 and 1280.11 to update references to forms used and subsection numbering. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are Americans with Disabilities Act (ADA) compliant.

The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with existing State regulations. The Department is the sole State authority

over specified public equine events and sales pursuant to Chapter 8 (commencing with section 24000) of Division 11 of the FAC.

Anticipated Benefits of the Proposal: This proposal benefits the equine industry by promoting the safety of the horse and rider in competition and horses at public sales by preventing any potential misuse of drugs or medications that could fraudulently mask a disease, condition, or injury of the horse which could place the rider and/or the horse in jeopardy. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are ADA compliant. Information provided on these forms is used to assist the Department in fulfilling its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with FAC sections 24005, 24006, 24007, 24008, 24009, 24010, 24011, 24012, 24013, and 24015.

Consistency and Compatibility with Existing State Regulations: The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with the Department's existing State regulations regarding public equine events and sales. There are other State regulations dealing with the proper use of drugs and medications in equines under the California Horse Racing Board (Board) [Division 4 (commencing with section 1400) of Title 4 of the CCR] which is separate and distinct from the Department's EMMP. The Department has no jurisdiction over horse racing in the State yet work together with veterinarians of the Board to ensure a consistency of the programs within the State.

Documents Incorporated by Reference: None.

Technical, Theoretical, and Empirical Study, Report, or Similar Documents: No technical, theoretical, and empirical study, report, or similar documents were used in formulating this proposal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code section 17500 et seq. Require Reimbursement: None.

Business Impact: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

The Department has made an initial determination that the proposed regulatory action will not have any significant statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.

The Department has made an initial determination that this regulatory proposal will impact the equine industry in California which may consist of persons and businesses required to register with the Department for any public horse events and sales held in California and affect persons and businesses choosing to participate in public horse events and sales in accordance with FAC section 24001, 24012, and 24015. The Department's proposal affects small businesses.

This proposal affects individuals and businesses choosing to participate in equine events and public sales throughout the State.

Cost Impacts on Representative Private Persons or Businesses: The Department is not aware of any cost impacts that representative private persons or businesses would necessarily incur in reasonable compliance with the proposed action. The proposed regulations affect individuals and businesses choosing to participate in various equine events held throughout California.

The anticipated compliance requirements as a result of this proposal:

Paperwork/reporting requirement: There are no new reporting requirements as a result of this proposal. This proposal amends section 1280.1 to repeal the existing three (3) program forms used for the registration and assessment of equine events and sales, and for the reporting of medications used before and during equine events and sales which are currently incorporated by reference and identified by title, form number, and revision date. The Department is proposing to amend the language to replace the forms incorporated by reference with forms identified by title and form number and describe the substantive requirements and contents of each form in proposed sections 1280.1, 1280.2, and 1280.3. The Department also proposes to amend sections 1280.8 and 1280.11 to update references to forms used and subsection numbering. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are ADA compliant.

Effect on Housing Costs: None.

Effect on Small Business: The Department's proposal may affect small equine businesses choosing to participate in equine events and public sales throughout California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Persons/Businesses affected by this proposal:

- Persons required to register for equine events - California hosts approximately 1,300 registered equine events annually, ranging from small backyard schooling (practice) shows to internationally recognized endurance events, as well as other types of competitions and public horse sales. This proposal will impact persons and businesses required to register with the Department for any public horse events and sales held in California in accordance with FAC sections 24001, 24012, and 24015.
- Persons choosing to participate in equine events - Equine events registered with the Department represent approximately 100,000 horse entries into competitions annually. For any equine that has received a permissible or prohibited substance, the owner/trainer/exhibitor must complete and file with an event manager an Official Form for Declaration of Drugs Administered, Form 76-027, as specified. On average, the Department receives 350-400 completed drug declaration forms per year. This proposal will impact persons and businesses choosing to participate in public horse shows and sales in accordance with FAC sections 24001, 24012, and 24015.

Benefits of the regulation to the health and welfare of California residents, worker safety, and the State's environment:

The Department is not aware of any specific benefits this proposal will have on the health of California residents, worker safety, or the State's environment.

The Department believes this proposal benefits the welfare of California residents by protecting the economic health of the affected equine industry. This proposal amends

section 1280.1 to repeal the existing three (3) program forms used for the registration and assessment of equine events and sales, and for the reporting of medications used before and during equine events and sales which are currently incorporated by reference and identified by title, form number, and revision date. The Department is proposing to amend the language to replace the forms incorporated by reference with forms identified by title and form number and describe the substantive requirements and contents of each form in proposed sections 1280.1, 1280.2, and 1280.3. The Department also proposes to amend sections 1280.8 and 1280.11 to update references to forms used and subsection numbering. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are ADA compliant.

The above determinations are based on the fact that the proposed regulations assist the Department in fulfilling its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with FAC sections 24005, 24006, 24007, 24008, 24009, 24010, 24011, 24012, 24013, and 24015.

Occupations/Businesses Impacted: This proposal will impact the equine industry in California; will impact persons required to register with the Department for any public horse events and sales held in California, and affect persons choosing to participate in public horse events and sales in accordance with FAC sections 24001, 24012, and 24015. The Department's proposal affects small businesses.

Business Reporting Requirement:

Paperwork/reporting requirement: There are no new reporting requirements as a result of this proposal. This proposal amends section 1280.1 to repeal the existing three (3) program forms used for the registration and assessment of equine events and sales, and for the reporting of medications used before and during equine events and sales which are currently incorporated by reference and identified by title, form number, and revision date. The Department is proposing to amend the language to replace the forms incorporated by reference with forms identified by title and form number and describe the substantive requirements and contents of each form in proposed sections 1280.1, 1280.2, and 1280.3. The Department also proposes to amend sections 1280.8 and 1280.11 to update references to forms used and subsection numbering. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are ADA compliant.

Comparable Federal Regulations: This proposal does not duplicate or conflict with federal regulations because there are no federal regulations governing public equine events or sales. The Department is the sole State authority over specified public equine events and sales pursuant to Chapter 8 (commencing with section 24000) of Division 11 of the FAC.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought the attention of the Department would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. This proposal is necessary to allow the EMMP to revise forms as necessary to keep program forms up to date and to ensure program forms are ADA compliant. Information provided on these forms is used to assist the Department in fulfilling its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with FAC sections 24005, 24006, 24007, 24008, 24009, 24010, 24011, 24012, 24013, and 24015.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing (if a hearing is requested) or during the written public comment period.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Department has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the Initial Statement of Reasons, and all the information upon which the proposal is based, may be obtained by contacting the persons named below or by accessing the Department's website as indicated below in this Notice.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries and any 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>

**DEPARTMENT OF FOOD AND AGRICULTURE
Animal Health Branch
PROPOSED REGULATION TEXT**

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 the section heading and section 1280.1. of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1280.1. Event Registration.

~~(a) Every public equine event or public horse sale shall be registered with the Department pursuant to sections 24001, 24012 and 24015 of the Food and Agricultural Code.~~

~~(b)~~^(a) The event manager is the "person in charge of an event", including the person responsible for registering the event with the Department and the person responsible for the assessment, collection, and remittance fees, and is personally liable for fees and penalties, if any, owed to the Department.

~~(c) The following forms, which are incorporated by reference, are required to be completed and sent to the Department according to the instructions contained on the forms:~~

~~(1) Application to Register Equine Event/Assessment Report For Registered Event, Form 76-024A (Rev. 08/19), is required at least 60 days in advance of the event. A fee of \$8.00 per horse entered per public show or sale must be assessed in accordance with section 1280.2 of these regulations. The assessment report must be submitted to the Department and fees remitted within fifteen (15) days after the final day of the event. Event managers are responsible for notifying the Department of Food and Agriculture of event changes or cancellations.~~

~~(2) Saleyard Assessment Report/Law Prohibiting Drugging of Horses, Form 76-025 (Rev. 08/19), must be filed by the sale manager within fifteen (15) days of the end of the month being reported. The assessment fee is \$8.00 for each horse consigned for public sale pursuant to section 1280.2 of these regulations.~~

~~(3) Official Form For Declaration Of Drugs Administered, Form 76-027 (Rev. 11/13) or a compatible document of the event sanctioning organization, must be completed by a registered event exhibitor or consignor and filed with the event manager for any horse that has received a prohibited substance for therapeutic reasons within three (3) days before a show/competition or five (5) days before a sale.~~

~~(A) The owner/exhibitor/trainer is to submit the completed Form 76-027 (Rev. 11/13) or a compatible document of the event sanctioning organization to the event~~

~~manager within one (1) hour if administration of the product(s) occurs at the event. If the product administration occurs at a time other than during show or sale hours, the owner or trainer should submit the completed form within one (1) hour after an event manager returns to duty.~~

(b) Every public equine event or public horse sale shall be registered with the Department pursuant to sections 24001, 24012, and 24015 of the Food and Agricultural Code, at least 60 days in advance of the event on the Application to Register Equine Event/Assessment Report for Registered Event, Form 76-024A as provided by the Department, or on-line at <http://apps4.cdfa.ca.gov/emmppublic/eventregistration.aspx>. To register events using Form 76-024A, sections (1) and (2) must be completed and the application form returned to the Department at least 60 days prior to the event start date. The Department, upon receipt of Form 76-024A, shall issue an event number, document the event number on the form, and return the form to the event manager to be used for the remittance of fees collected pursuant to subsection (c) below for public equine events. Form 76-024A shall include:

(1) Event information including: name of event; event start date, event end date, and start time; number of equines expected; facility name and facility address (or geographic location) including city, zip code, and county; event type (English, Western, etc.); and sponsor organization, if applicable.

(2) Event manager information including: last name and first name; mailing address including city, state, and zip code; primary telephone number; alternate telephone number or fax; e-mail address, and event alternate contact information including last name and first name, telephone number, and e-mail address.

(3) Payment information including: number of horses assessed; fees collected (number of horses entered in the registered event multiplied by the applicable fee in accordance with section 1280.2); pursuant to Food and Agricultural Code section 24012, a 10% penalty shall be applied when fees are not submitted within 15 days of the event end date and an additional 1.5% interest penalty shall be applied when fees are not submitted within 30 days; total amount due to the Department; and check number when fees are remitted by check.

(4) Signature of event manager and date signed (and date the event was cancelled, if applicable).

(c) Event managers are responsible for notifying the Department of event changes or cancellations.

Note: Authority cited: Sections 407 and 24013, Food and Agricultural Code. Reference: Sections 24001, 24012 and 24015, Food and Agricultural Code.

Amend section 1280.2. of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1280.2. Fees.

(a) The event manager is responsible for the assessment, collection, and remittance of fees, and is personally liable for fees and penalties, if any, owed to the Department.

(b) Beginning January 1, 2020, the applicable fee is \$8.00 per horse entered per event, except where a horse is entered in simultaneous multiple events held as single performances, the total applicable fee per horse shall be \$8.00.

(c) Event managers of public equine events must assess, collect, and remit fees to the Department within 15 days of the event end date using the Application to Register Equine Event/Assessment Report for Registered Event, Form 76-024A as provided by the Department, or on-line at <https://secure.cdfa.ca.gov/egov/emmp/>. To remit fees using Form 76-024A, sections (3) and (4) of the form as described in section 1280.1(b)(3) and (4) must be completed and the form with fees collected in the amount due, returned to the Department within 15 days after the final day of the event.

(d) Saleyard managers of public horse sales must assess and collect fees for all public horse sales held during a one-month period, and remit fees to the Department within 15 days of the end of the month being reported either on-line at <https://secure.cdfa.ca.gov/egov/emmp/> or by using the Saleyard Assessment Report, Form 76-025 as provided by the Department and the form shall include:

- (1) Name of sale;
- (2) Date of sale;
- (3) Facility name and address (or geographic location) where the event will be held;
- (4) Facility mailing address;
- (5) Telephone number of saleyard;
- (6) First and last name of saleyard manager;
- (7) First and last name of an alternate contact;
- (8) Payment information including: number of horses assessed; fees collected (number of horses consigned for public sale multiplied by the applicable fee in accordance with section 1280.2); pursuant to Food and Agricultural Code section 24012, a 10% penalty shall be applied when fees are not submitted within 15 days of the end of the month reported and an additional 1.5% interest penalty shall be applied when fees are not submitted within 30 days of the end of the month reported; total amount due to the Department; and check number when fees are remitted by check.
- (9) Signature of the saleyard manager and date signed.

Note: Authority cited: Sections 407, 24012 and 24013, Food and Agricultural Code.
Reference: Section 24012, Food and Agricultural Code.

Amend the section heading and section 1280.3 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1280.3. ~~Testing of Horses~~ Declaration of Drugs Administered.

(a) Show or competition horses receiving a prohibited substance for therapeutic reasons are not be eligible for show or competition for a period of not less than 24 hours after receiving the prohibited substance.

(b) Sale horses receiving a permissible substance or prohibited substance for therapeutic reasons are not eligible for a public sale for a period of not less than 72 hours after receiving the permissible or prohibited substance.

(c) Any horse receiving anabolic steroids for therapeutic reasons shall be withdrawn from show, competition, or sale for 90 days after the administration of the anabolic steroid and for 45 days after the administration of fluphenazine or reserpine.

(d) Registered event exhibitors/owners/trainers must make a declaration of drugs administered pursuant to Food and Agricultural Code section 24011 and as specified in subsection (f) below for any horse that has received a prohibited substance for therapeutic reasons within three (3) days before a show/competition.

(e) Registered sale consignors must make a declaration of drugs administered in accordance with subsection (f) below for any horse that has received a permissible substance or a prohibited substance for therapeutic reasons within five (5) days before a sale.

(f) All declarations of drugs administered must be filed with the event manager on a completed Declaration of Drugs Administered, Form 76-027 as provided by the Department within one (1) hour of administering the product(s) if the administration occurs at the event or within one (1) hour after an event manager returns to duty if the administration occurs at a time other than during event hours. The Declaration of Drugs Administered form shall include:

- (1) Name and date of event;
- (2) Time and date of declaration;
- (3) Horse entry number;
- (4) Name, age, sex, color, and breed of horse;
- (5) Product name of drug or medication administered;
- (6) Amount, mode/route of administration (oral/injection/topical), and size/concentration/strength of drug or medication administered;
- (7) Diagnosis and reason for administering the medication;
- (8) Time and date of administration;

- (9) Name and signature of person administering the drug or medication;
- (10) Name, address, and telephone number of horse's owner; and
- (11) Name and signature of the event manager receiving the declaration, which acknowledges the form is complete, including the date and time received.

(g) Event managers of public equine events shall submit all Declaration of Drugs Administered, Form 76-027 received pursuant to this section to the Department within 15 days of the completion of the event, and for saleyard managers of public horse sales within 15 days of the end of the month reported.

(h) Information provided on the Declaration of Drugs Administered, Form 76-027 in conjunction with any other relevant evidence shall be considered by the Department in determining whether a violation has occurred.

Note: Authority cited: Sections 407, ~~24007 and 24008~~ 24011, and 24013 Food and Agricultural Code. Reference: Sections 24000-24018 24003, 24004, and 24006, Food and Agricultural Code.

Amend section 1280.8. of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1280.8. Therapeutic Drugs and Medicines.

(a) Therapeutic drugs or medicines administered for purposes other than under veterinary prescription for a diagnosed illness or injury are considered prohibited substances, and their use is a violation of this section.

(b) Horses administered therapeutic drugs or medicines for purposes other than under veterinary prescription for a diagnosed illness or injury shall not compete or be available for sale until the prohibited substance is no longer detectable in the urine or blood sample.

(c) A therapeutic drug or medicine is permitted when:

(1) A prohibited substance is administered more than 24 hours before competition or more than 72 hours before a public sale.

(2) The therapeutic drug or medicine, or metabolite of the therapeutic drug or medicine, does not interfere with the quantification of any permitted substance or detection of any prohibited substances as defined by Food and Agricultural Code section 24001(h).

(3) Only one (1) nonsteroidal anti-inflammatory drug (NSAID) is given. When two NSAIDs are in a therapeutic regime, one must be discontinued at least 72 hours before competition.

(A) When administered by a licensed veterinarian for the emergency treatment of colic or an ophthalmic emergency, flunixin, in addition to one (1) other NSAID, may be acceptable if found in the plasma or urine sample of a horse provided:

(i) The licensed veterinarian who administered the substances properly signs and files a drug ~~d~~Declaration of Drugs Administered, [Form 76-027(Rev. 11/13)] with the event manager or designee within one (1) hour after administration of the substances or one (1) hour after the event manager or designee returns to duty if the administration occurs at a time outside competition hours; and

(ii) The horse is withdrawn from competition for 24 hours or from public sale for 72 hours.

(4) The detected level in the sample does not exceed the established maximum detectable plasma levels for the following drug or medicine:

- (A) 15.0 micrograms per milliliter of phenylbutazone.
- (B) 1.0 micrograms per milliliter of flunixin.
- (C) 2.5 micrograms per milliliter of meclofenamic acid.
- (D) 40 micrograms per milliliter of naproxen.
- (E) 0.240 micrograms per milliliter of firocoxib.
- (F) 0.005 micrograms per milliliter of diclofenac.
- (G) 0.250 micrograms per milliliter of ketoprofen.
- (H) 0.0005 micrograms per milliliter of dexamethasone.
- (I) 0.5 micrograms per milliliter of methocarbamol.

(5) The detected level in the sample does not exceed the established maximum detectable urine levels for the following drug or medicine:

- (A) 0.09 micrograms per milliliter of dexamethasone.
- (B) 350 micrograms per milliliter of methocarbamol.

(d) No injectable substance shall be given to a horse within 12 hours of competition except:

(1) A minimum of 1 liter of polyionic fluids per 100 pounds of body weight given therapeutically by a licensed veterinarian between 6-12 hours of competition.

Therapeutic fluids with concentrated electrolytes, such as magnesium, are prohibited.

(2) Antibiotics, except procaine penicillin G, administered by a licensed veterinarian between 6-12 hours of competition.

(3) Dexamethasone, not to exceed 0.5 milligram per 100 pounds, administered by a licensed veterinarian between 6-12 hours of competition exclusively for the treatment of acute urticaria (hives). The total dose of dexamethasone administered within 24 hours shall not exceed 1.0 mg per 100lbs.

(4) The licensed veterinarian who administered the injectable substances in (d)(1) through (3) above shall sign and file a drug ~~d~~Declaration of Drugs Administered, [Form 76-027(Rev. 11/13)] with the event manager or designee within one (1) hour after the administration of the injectable substance or one (1) hour after the event manager or designee returns to duty if the administration occurs at a time outside competition hours.

Note: Authority cited: Sections 407, 24011.6 and 24013, Food and Agricultural Code.
Reference: Sections 24003, 24004, 24006, 24008, 24009 and 24011, Food and
Agricultural Code.

**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 include the second offense, third offense, and any subsequent offenses for failure to submit a horse for sample collection; the first offense, second offense, and any subsequent offenses for detection of a non-therapeutic prohibited substance; the second offense and any subsequent offenses for detection of therapeutic prohibited substances; the third offense and any subsequent offenses for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample; the third offense and any subsequent offenses for detection of a permissible substance over the maximum detectable plasma level; and the second offense, third offense, and any subsequent offenses for administration of a prohibited injectable substance within 12 hours of competition. Serious violations also include the third offense and any subsequent offenses for failure of an event manager to register an event at least 60 days in advance of the event and the third offense and any subsequent offenses for failure of an event manager to submit fees within 15 days after the final day of the event.

(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 that include the first offense for failure to submit a horse for sample collection; the first offense for detection of a therapeutic prohibited substance; the second offense for detection of a permissible substance over the maximum detectable plasma level; the second offense for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample; and the first offense for administration of a prohibited injectable substance within 12 hours of competition. Moderate violations also include the second offense for failure of an event manager to register an event at least 60 days in advance of the event and the second offense for failure of an event manager to submit fees within 15 days after the final day of the event.

(3) "Minor." Violations that are unintentional and have minimal performance enhancing action in the competition, including the first offense for detection of a permissible substance over the maximum detectable plasma level and the first offense for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample. Minor violations also include the first offense for failure of an event manager to register an event at least 60 days in advance of the event and the first offense for failure of an event manager to submit fees within 15 days after the final day of the event. 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
<u>1280.1(e)(1)</u> <u>1280.1(b)</u>	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.
<u>1280.1(e)(1)</u> <u>1280.1(b)</u>	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.
<u>1280.1(e)(1)</u> <u>1280.1(b)</u>	Failure of Event Manager to Register			X	Violations may be assessed at a

	Event at least 60 days in advance of the event – Third Offense and any subsequent offenses				minimum of \$2,000 up to \$10,000.
<u>1280.1(e)(1)</u> <u>1280.2(c)</u>	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.
<u>1280.1(e)(1)</u> <u>1280.2(c)</u>	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.
<u>1280.1(e)(1)</u> <u>1280.2(c)</u>	Failure of Event Manager to Submit Fees within 15 days after the final day of the event – Third Offense and any subsequent offenses			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 <u>\$1,000</u> to <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 \$5,000 to \$10,000.

1280.7(b)	Failure to Submit Horse for Sample Collection – Third Offense and any subsequent offenses			X	Violations may be assessed at \$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 \$5,000 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 – Second Offense and any subsequent offenses			X	Violations may be assessed at a minimum of \$5,000 up to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to one year.
1280.8(c)(1)	Detection of a Therapeutic Prohibited Substance – First Offense		X		Violations may be assessed at a minimum of \$1,000 up to \$2,000.
1280.8(c)(1)	Detection of a Therapeutic Prohibited Substance – Second Offense and any subsequent offenses			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 \$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 \$1,000 up to \$2,000.
1280.8(c)(3)	Detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs) in a sample – Third Offense and any subsequent offenses			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 \$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 \$1,000 up to \$2,000.
1280.8(c)(4)	Detection of a permissible substance over the maximum detectable plasma level – Third Offense and any subsequent offenses			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		X		Violations may be assessed at a minimum of \$1,000 up to \$2,000.

1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Second Offense			X	Violations may be assessed at a minimum of \$2,000 up to \$5,000.
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Third Offense and any subsequent offenses			X	Violations may be assessed at a minimum of \$5,000 up to \$10,000 and possible suspension of the owner, trainer or both from competition for 90 days to <u>one year</u> .

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.