

**The Department of Food and Agriculture  
Animal Health Branch  
Proposed Regulations– Equine Medication Monitoring Program**

**Modified Text**

***Legend for Modified Text:***

- Single underline and ~~strikeout~~ is text noticed to the public during the 45-day comment period ending January 15, 2018.
- Modified text is shown in double underline for added text, and single underline and ~~strikeout~~ for deleted text.

**All written comments must address only the modified text of the rulemaking file.**

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 the second offense, third offense and any subsequent offenses for failure to comply with requests from the submit a horse for sample collection to an Equine Medication Monitoring Program representative; ~~the first offense, second offense and any subsequent offenses for detection of a non-therapeutic use of a prohibited substance;~~ repetitive use of repeated the second offense and any subsequent offenses for detections of therapeutic prohibited substances and repetitive failure to comply with actions; ~~the third offense (and any subsequent) offenses for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs);~~ the third (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 failing 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 failing 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 ~~or repeated violations of permissible level of detection and initial prohibited therapeutic substance detection~~ that include initial the first offense for failure to comply with requests from the submit a horse for sample collection to an Equine Medication Monitoring Program representative, initial first offense for detection of a prohibited therapeutic substance, second offense for detection of a permissible substance over the maximum detectable plasma level, second offense for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs), and initial 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 initial the first offense for detection of a permissible substance over the maximum detectable plasma level and the initial first offense for detection of two Nonsteroidal Anti-inflammatory Drugs (NSAIDs). Minor violations also include the first offense of for failure of an event manager failing to register an event at least 60 days in advance of the event and the first offense of for failure of an event manager failing 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
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 <u>and any subsequent offenses</u>			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 <u>and any subsequent offenses</u>			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 <del>\$500</del> <u>\$1,000</u> to <del>\$1,000</del> <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 <del>\$2,000</del> <u>\$5,000</u> to \$10,000.
1280.7(b)	Failure to Submit Horse for Sample Collection – Third Offense <u>and any subsequent offenses</u>			X	Violations may be assessed at a <del>minimum of \$2,000</del> 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 <del>\$10,000</del> <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 <u>and any subsequent offenses</u>			X	Violations may be assessed at a minimum of <del>\$2,000</del> <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 <del>\$500</del> <u>\$1,000</u> up to \$2,000.
1280.8(c)(1)	Detection of a Therapeutic Prohibited Substance – Second Offense <u>and any subsequent offenses</u>			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 <del>minimum of \$100</del> 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 <del>\$500</del> <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 <u>and any subsequent offenses</u>			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 <del>minimum of \$100</del> 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 <del>\$500</del> <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 <u>and any subsequent offenses</u>			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	X		Violations may be assessed at a minimum of <del>\$100</del> <u>\$1,000</u> up to <del>\$500</del> <u>\$2,000</u> .
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Second Offense		X	X	Violations may be assessed at a minimum of <del>\$500</del> <u>\$2,000</u> up to <del>\$2,000</del> <u>\$5,000</u> .
1280.8(d)	Administration of a prohibited injectable substance within 12 hours of competition – Third Offense <u>and any subsequent offenses</u>			X	Violations may be assessed at a minimum of <del>\$2,000</del> <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.