

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 April 19, 2019 and ending at 5:00 p.m. on June 3, 2019**. 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 instance 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 sections 407, 24012, and 24013, Food and Agricultural Code, and to implement, interpret or make specific section 24012 of said Code, the Department is proposing to make changes to section 1280.2 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law, Chapter 8 (commencing with section 24000) of Division 11 of the Food and Agricultural Code authorizes the Department of Food and Agriculture (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 law, section 24012 of the Food and Agricultural Code 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, in consultation with the advisory committee appointed pursuant to section 24013.5.

Fees are collected for each equine being entered in a public show/competition or being consigned to a public sale; fees collected are used to fund the EMMP.

Existing section 1280.2 of Title 3 of the California Code of Regulations specifies the fees for each horse entered per event at horse shows and competitions are \$5.00. This proposal amends section 1280.2 to increase the applicable fees from \$5.00 to \$8.00 for each horse entered in public events, competitions, and sales. As amended, this section also specifies the effective date of the fee increase to begin January 1, 2020.

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 Food and Agricultural Code.

Anticipated Benefits of the Proposal:

The California equine industry produces goods and services valued at approximately \$8.3 billion and includes approximately 550,000 horses. California horses are mostly used for recreation, the largest sector of the horse industry having nearly 40% of the horse population; sporting which consists of competitions, shows, and racing; and those used for therapeutic purposes. 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 increase fees to ensure continuity of program services which serve to ensure the Department of Food and Agriculture fulfills its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with Food and Agricultural Code 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 California Code of Regulations] which is separate and distinct from the Department's Equine Medication Monitoring Program. 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

1. Minutes from the September 27, 2018 Equine Medication Monitoring Program Advisory Committee Meeting
2. Minutes from the September 27, 2017 Equine Medication Monitoring Program Advisory Committee Meeting
3. United States Equestrian Federation, 2018 USEF Guidelines & Rules for Drugs and Medications.
https://www.usef.org/forms-pubs/2Zp2C_YKs4s/drugs-medications-guidelines
4. Example #1 - Fund Condition Statement W/O Fee Increase
5. Example #2 - Fund Condition Statement W/ Fee Increase
6. Excerpts from the American Horse Council Foundation, Economic Impact of the Horse Industry in California, 2018
7. Brochure dated January 2019, Equine Medication Monitoring Program, Information for Exhibitors and Consignors
8. Brochure dated January 2019, Equine Medication Monitoring Program, Event Registration Instructions and Guidelines

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 of Food and Agriculture (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; will impact persons required to register with the Department any public horse event and sales held in California, and affect persons choosing to participate in public horse events and sales in accordance with Food and Agricultural Code 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 California.

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 regulation affects individual and businesses choosing to participate in various equine events held throughout California.

The anticipated compliance requirements as a result of this proposal is as follows:

Paperwork/reporting requirement: This proposal increases testing fees collected from persons choosing to participate in in equine events and competitions, and equine sales held in California. Current testing fees are \$5 per horse at events; this proposal increases those fees collected to \$8. Existing regulations require the use of various application, registration and reporting forms for participants and hosts of public equine events and sales in the State.

Effect on Housing Costs:

None.

Effect on Small Business:

The Department's proposal affects 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 of Food and Agriculture (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:

- California's equine industry - The California horse industry is valued at approximately 8.3 billion dollars with approximately 550,000 horses in California. California horses are mostly used for recreation, the largest sector of the horse industry having nearly 40% of the horse population; sporting which consists of competitions, shows, and racing; and those used for therapeutic purposes.
- Persons required to register 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 competition and public horse sales. This proposal will impact persons required to register with the Department any public horse event and sales held in California in accordance with Food and Agricultural Code sections 24001, 24012, and 24015.
- Persons choosing to participate in equine events - This proposed regulation increases drug testing fees collected by event managers of equine events and public horse sales from persons entering horses in their events. The event manager remits these fees to the Department and they are deposited into the Department of Food and Agricultural Fund. The fees are exclusive of any other fees charged by the industry for the administration and management of equine events. Equine events registered with the Department represent approximately 100,000 horse entries into completions annually. The Department is proposing a fee increase from \$5 to \$8. This proposal will impact persons choosing to participate in public horse shows and sales in accordance with Food and Agricultural Code 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 regulatory proposal increases testing fees collected and remitted by event managers for horses entered at public shows and sales. The Department believes these changes are necessary to adjust the program's funding source to maintain current program operations and to stabilize the program's reserve account.

The above determinations are based on the fact that the proposed regulations serve to ensure the Department fulfills its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with Food and Agricultural Code 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 any public horse event and sales held in California, and affect persons choosing to participate in public horse events and sales in accordance with Food and Agricultural Code section 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 increases drug testing fees collected from persons choosing to participate in in equine events and competitions, and equine sales held in California. Current testing fees are \$5 per horse at events; this proposal increases those fees collected to \$8. Existing regulations require the use of various application, registration and reporting forms for participants and hosts of public equine events and sales in the State.

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 of Food and Agriculture 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 Food and Agricultural Code.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought the attention of the Department of Food and Agriculture (Department) would be more effective in carrying out the purpose for which the action is proposed or 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 increase fees to ensure continuity of program services which serve to ensure the Department fulfills its mandate of the protection of both the horse and rider in public horse shows and sales in accordance with Food and Agricultural Code 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 of Food and Agriculture'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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Animal Health & Food Safety Services
Division/Administration
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The backup contact person is:

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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>