

**State of California
Office of Administrative Law**

In re:
Department of Food and Agriculture

Regulatory Action:

Title 3, California Code of Regulations

Adopt sections: 1280, 1280.1, 1280.8,
1280.10

Amend sections: 1280.7

Repeal sections:

**AMENDED NOTICE OF APPROVAL OF
EMERGENCY REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL File No. 2013-1125-03 E

This emergency rulemaking action by the Department of Food and Agriculture amends the regulations governing the Equine Medication Monitoring Program (EMMP). These regulations will align with those of the United States Equine Federation (USEF), the national governing body for equestrian sports, which were recently amended to strengthen USEF's random drug testing standards. The amended rules include a new list of approved therapeutic medications and maximum detectable plasma levels, acceptable time frames for injection of medications, specific penalties for violation of the rules, and incorporation by reference of various forms.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

The original notice of approval, dated 12/5/2013, incorrectly stated that the emergency regulatory action was effective 12/5/2013 and would expire 6/3/2014.

This emergency regulatory action is effective on 1/1/2014 and will expire on 7/1/2014. The Certificate of Compliance for this action is due no later than 6/30/2014.

Date: 12/9/2013


Eric Partington
Staff Counsel

Original: Karen Ross
Copy: Nancy Grillo

For: DEBRA M. CORNEZ
Director

The Department of Food and Agriculture
Animal Health Branch
Equine Medication Monitoring Program
Chapter 6, Division 2, of Title 3 of the California Code of Regulations

Approved by the Office of Administrative Law December 5, 2013; Effective January 1, 2014

1) Adopt sections 1280 and 1280.1 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

1280. Purpose of Subchapter. ~~[Repealed]~~ Definitions.

a) The following definitions are supplemental to the definitions specified in Food and Agricultural Code section 24001 and are used specific to this chapter:

(1) "Therapeutic drugs or medicines" means drugs or medicines prescribed for use by a licensed veterinarian for the treatment of a diagnosed illness or injury.

(2) "Permissible drugs or medicines" means therapeutic drugs or medicines or drugs and medicines found in a sample within the established maximum detectable plasma or urine levels.

(3) "Prohibited substance" means:

(A) Permissible drugs or medicines that exceed established maximum detectable plasma or urine levels;

(B) Therapeutic drugs or medicines used without a prescription for use by a licensed veterinarian for treatment of illness or injury; or

(C) Any stimulant, depressant, tranquilizer, anesthetic, including local anesthetic, sedative, analgesic, corticosteroid excluding dexamethasone, anabolic steroid, or masking agent administered within 24 hours before competition or 72 hours before public sale.

Note: Authority cited for Subchapter 6 (Sections 1280 through 1280.11): Sections 407, 24007 and 24008, Food and Agricultural Code.

NOTE: Authority cited: Sections 407 and 24013, Food and Agricultural Code. Reference: Section 24001, Food and Agricultural Code.

1280.1. Registration. ~~[Repealed]~~

(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) 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/Event Copy for Managers, Form 76-024A (Rev. 01/08), is required at least 60 days in advance of the event. A fee of \$5.00 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) Law Prohibiting the Drugging of Horses/Saleyard Assessment Report, Form 76-025 (Rev. 11/2013), must be filed by the sale manager within fifteen (15) days of the end of the month being reported. The assessment fee is \$5.00 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), 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) 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.

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

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

2) Amend section 1280.7 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

1280.7. Random Testing.

(a) The ~~Director~~ Department will require random testing of horses exhibited or entered in any public horse show, horse competition, or public horse sale and shall designate the frequency and method of such testing by providing instructions to department personnel, contracting veterinarians, and to laboratories performing analyses.

(b) An owner, trainer, both owner and trainer, or any person designated by the owner or trainer to maintain control of a horse randomly selected for examination by Department personnel shall:

(1) Take the selected horse without delay to a location determined by Department personnel for collection of the sample. Any activity causing delay of sample collection, including,

but not limited to, schooling or training, lengthy cooling out period, or bandaging shall be considered "non-cooperative."

(2) Remove equipment from the horse.

(3) Remove himself or herself from the immediate proximity of the horse.

(4) Avoid activities distracting to the horse.

NOTE: Authority cited: Sections 407, ~~24003~~ and 24008 24013, Food and Agricultural Code.
Reference: Sections ~~24000-24018~~ 24008 and 24009, Food and Agricultural Code.

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

1280.8. Request for Testing. [Repealed] 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 declaration 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 10 liters of polyionic fluids 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 declaration [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, 24003 and 24008, Food and Agricultural Code. Reference: Sections 24000-24018, Food and Agricultural Code.~~

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

4) Adopt section 1280.10 of Chapter 6, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

1280.10. Penalties. ~~[Repealed]~~ Violations.

(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 constitutes a violation punishable by a fine of not less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000).

(b) The Department may act consistent with any other existing enforcement authority concurrently or at a later date unless otherwise prohibited. Existing remedies include, but are not limited to, the following:

(1) Denial, suspension, or revocation of a registration or other indicia of authority issued by the Department;

(2) Suspension of the owner, trainer and/or exhibitor from all competitions at any public horse show or competition for a period of not less than 90 days or more than one year for each violation; and

(3) Suspension of the event manager from the management of any public horse show or competition for a period of not less than 90 days or more than one year for each violation.

(c) The Department may impose civil or administrative penalties, including, but not limited to, the following:

(1) Referral to the appropriate Office of the Attorney General for criminal prosecution or other appropriate remedy; and

(2) Reimbursement to the Department for any costs incurred due to any violation of this Chapter or Chapter 8 (commencing with section 24000) of Division 11 of the Food and Agricultural Code.

~~Note: Authority cited: Sections 407, 24003 and 24008, Food and Agricultural Code. Reference: Sections 24000-24018, Food and Agricultural Code.~~

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.

[End]