

DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT

~~FAIRS, EXHIBITIONS AND RACING DIVISION~~ EXECUTIVE DIVISION

REGULATION NO. 813 TESTING HORSES AND PULLING TEAMS FOR DRUGS
~~AT STATE FUNDED EVENTS~~

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45(a) of the 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of agriculture by section 20 of 1995 PA 279, MCL 431.320, **and transferred to the Michigan department of agriculture and rural development by Executive Order 2011-2.**)

R 285.813.1, R 285.813.2, R 285.813.3, R 285.813.4, R 285.813.5, and R 285.813.6 of the Michigan Administrative Code are amended, as follows:

R 285.813.1 Definitions.

Rule 1. As used in these rules:

(a) "Drug" means any of the following:

(i) A substance recognized or for which the standards or specifications are prescribed in the official compendium consisting of the United States pharmacopoeia, homeopathic pharmacopoeia, of the United States or national formulary and supplements in effect on the effective date of these rules.

(ii) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(iii) A substance, other than food, intended to affect the structure or any function of the body of man or other animals.

(b) "Department" means the department of agriculture **and rural development.**

(c) "Director" means the director of the department or his or her designee.

(d) "Event" means a congregation, gathering or collection of horses that are presented or exposed to public view for show, display, swap, exchange, entertainment, educational event, instruction, advertising, or competition.

~~(e)~~ (e) "Fair" means all agricultural fairs and expositions ~~which~~ **that** hold harness horse races or pulling contests ~~and receive state funding for purses or premiums.~~

(f) "Gaming control board" is the official authority for Michigan horse racing under Executive Order 2009-45, which integrated what was formerly called the "office of racing commissioner".

~~(g)~~ (g) "Horses" mean all members of the family equidae.

~~(h)~~ (h) "Official sample" means a collection of blood, hair, urine, saliva, or tissue obtained from a horse.

~~(g) "Racing commissioner" means the official created by the Racing Law under Section 4 of 1995 PA 279, MCL 431.304.~~

R 285.813.2 Drugs; illegal use.

Rule 2. **(1)** Unless authorized by the ~~racing commissioner~~ **gaming control board** by rule or written order, a person shall not administer internally or externally a drug that could affect or alter the normal performance of a horse in a horse race or pulling event ~~where state funds are used for any portion of the purse or premiums.~~

(2) For purposes of this regulation, these rules apply only to events that are not under the jurisdiction of the gaming control board.

R 285.813.3 Collection of official samples.

Rule 3. (1) Official samples may be obtained by the director ~~of agriculture~~ or his or her designee from any horse entered in a ~~state-funded~~ race or pulling event. The director or his or her designee may request the fair association or event organizer to furnish necessary help to obtain official samples. Failure to provide sufficient help when requested shall result in forfeiture of all rights to state aid to the fair or event for these contests. The owner, trainer, groom, or other responsible representative of the owner shall be present when an official sample is taken from the horse and shall remain until the sample is sealed in his or her presence. The official sample tag attached to the specimen shall be signed by the owner, trainer, groom, or other representative as witness of the taking of the specimen. Refusal or failure to sign the sample tag shall not affect the validity of the specimen.

(2) Willful failure to be present at or refusal to allow the taking of a specimen, or any act or threat to impede, prevent, or otherwise interfere with the taking of the official sample, ~~is shall be~~ a violation of this rule. The official sample shall be analyzed in the laboratories of the Michigan department of agriculture or a laboratory designated by the director.

(3) The director or director's designee may require a preliminary breath test (PBT) from any driver, jockey, teamster, or starting gate operator for the races and pulling events described in these rules. If the results of the PBT show a reading of 0.05% of alcohol or above, then the driver, jockey, teamster, or starting gate operator shall not participate in that day's races or pulling events.

(4) Each fair **or event** shall comply with and assist in the enforcement of these rules and provide proper facilities and lighting as may be required by the department to perform the requirements of this rule.

R 285.813.4 Stimulants and Depressants.

Rule 4. Electrical, mechanical, or other devices shall not be used for stimulating or depressing a horse or affecting its speed or ability in a horse race or pulling event, nor shall a person have such a device in his or her possession, ~~where state funds are used for any portion of the purse or premium offered.~~ However, an ordinary whip with spur may ~~be used in a horse race.~~

R 285.813.5 Hearings.

Rule 5. (1) If a provision of these rules or any other rules or state law related to a horse race or pulling event is violated, then the director shall notify the horse's owner of the violation and shall hold a hearing within 14 days from the date that the violation is reported to the director or shall refer the matter to the ~~State Office of Administrative Hearings and Rules~~. **Michigan administrative hearing system.**

(2) For hearings conducted by the director, from testimony taken, the director shall render a decision on the penalty imposed and/or the eligibility of the owner, his or her representative, and the horse, or any of them, to participate in ~~state-funded horse races or pulling events or in~~ any future state, county, district, or community fair horse race or pulling event.

(3) The director or an administrative law examiner representing the ~~State Office of Administrative Hearings and Rules~~ **Michigan administrative hearing system** may impose any of the following penalties:

(a) Return to the department any purse or premium awarded in the horse race or pulling event.

(b) A penalty or fine pursuant to sections 30 and ~~section~~ 31 of 1995 PA 279, MCL 431.330 and 431.331.

(c) The owner and the horse may be prohibited from participating in horse races or pulling events at fairs for up to 1 year from the date of notification of the first violation.

(d) For second or additional violations, the owner and the horse may be prohibited from participating in horse races or pulling event indefinitely.