

# USDA Horse Protection Program

## Protocol for Foreign Substance Penalty

Beginning June 1, 2008, USDA will take the following actions in response to a foreign substance violation detected by a USDA inspector through use of the Gas Chromatography/Mass Spectrometry (GC/MS) Test:

**1<sup>st</sup> offense:** Issue official USDA warning (Form 7060) for violation of Federal Regulations to all parties involved.

**2<sup>nd</sup> offense:** Issue official USDA warning (Form 7060) for violation of Federal Regulations to all parties involved.

**3<sup>rd</sup> offense:** Offer a stipulation to the alleged violator in accordance with the Violations and Penalties section of the Horse Protection Act, Section (15 U.S.C.1825). If the alleged violator does not accept the stipulation, USDA will initiate an administrative enforcement action (commonly known as a "Federal case.") If the alleged violator accepts the stipulation but then fails to pay the amount specified, USDA will initiate an action under 15 U.S.C. 1825(b)(3) to recover the amount.

**4<sup>th</sup> offense:** USDA will initiate an administrative enforcement action (commonly known as a "Federal case.")

## Additional Information

- Samples for the GC/MS test will be randomly collected by USDA officials only.
- Tests will be conducted by USDA APHIS National Veterinary Services Laboratories in Ames, IA.
- Turnaround time of results may vary. To ensure that alleged violators have adequate notice to adjust their practices after learning of a violation, USDA will not consider a second offense to have occurred for any foreign substance detected by a GC/MS test from the time of the first offense to the time the alleged violator has received notice of the first offense.
- USDA will notify the alleged violator of the specific foreign substance or substances detected concurrently with the notification of the penalty.
- If multiple horses of an alleged violator are tested at one show competition, only one penalty will be applied.

**USDA will focus its prosecutorial discretion on foreign substances that are considered irritants, numbing, and masking agents.**

---

## Definition of Foreign Substance

As stated in the Horse Protection Regulations, Sec. 11.2 (c):

(c) Substances. All substances are prohibited on the extremities above the hoof of any Tennessee Walking Horse or racking horse while being shown, exhibited, or offered for sale at any horse show, horse exhibition, or horse sale or auction, except lubricants such as glycerine, petrolatum, and mineral oil, or mixtures thereof: Provided, That:

(1) The horse show, horse exhibition, or horse sale or auction management agrees to furnish all such lubricants and to maintain control over them when used at the horse show, horse exhibition, or horse sale or auction.

(2) Any such lubricants shall be applied only after the horse has been inspected by management or by a DQP and shall only be applied under the supervision of the horse show, horse exhibition, or horse sale, or auction management.

(3) Horse show, horse exhibition, or horse sale or auction management makes such lubricants available to Department personnel for inspection and sampling as they deem necessary.