

oratory accredited in accordance with the standards established under paragraph (1) to test samples taken in the applicable State.

(B) Selection by the authority

If a State racing commission does not select an accredited laboratory under subparagraph (A), the Authority shall select such a laboratory to test samples taken in the State concerned.

(c) Results management and disciplinary process

(1) In general

Not later than 120 days before the program effective date, the Authority shall establish in accordance with section 3053 of this title—

(A) rules for safety, performance, and anti-doping and medication control results management; and

(B) the disciplinary process for safety, performance, and anti-doping and medication control rule violations.

(2) Elements

The rules and process established under paragraph (1) shall include the following:

(A) Provisions for notification of safety, performance, and anti-doping and medication control rule violations.

(B) Hearing procedures.

(C) Standards for burden of proof.

(D) Presumptions.

(E) Evidentiary rules.

(F) Appeals.

(G) Guidelines for confidentiality and public reporting of decisions.

(3) Due process

The rules established under paragraph (1) shall provide for adequate due process, including impartial hearing officers or tribunals commensurate with the seriousness of the alleged safety, performance, or anti-doping and medication control rule violation and the possible civil sanctions for such violation.

(d) Civil sanctions

(1) In general

The Authority shall establish uniform rules, in accordance with section 3053 of this title, imposing civil sanctions against covered persons or covered horses for safety, performance, and anti-doping and medication control rule violations.

(2) Requirements

The rules established under paragraph (1) shall—

(A) take into account the unique aspects of horseracing;

(B) be designed to ensure fair and transparent horseraces; and

(C) deter safety, performance, and anti-doping and medication control rule violations.

(3) Severity

The civil sanctions under paragraph (1) may include—

(A) lifetime bans from horseracing, disgorgement of purses, monetary fines and penalties, and changes to the order of finish in covered races; and

(B) with respect to anti-doping and medication control rule violators, an opportunity to reduce the applicable civil sanctions that is comparable to the opportunity provided by the Protocol for Olympic Movement Testing of the United States Anti-Doping Agency.

(e) Modifications

The Authority may propose a modification to any rule established under this section as the Authority considers appropriate, and the proposed modification shall be submitted to and considered by the Commission in accordance with section 3053 of this title.

(Pub. L. 116-260, div. FF, title XII, §1208, Dec. 27, 2020, 134 Stat. 3269.)

§ 3058. Review of final decisions of the Authority

(a) Notice of civil sanctions

If the Authority imposes a final civil sanction for a violation committed by a covered person pursuant to the rules or standards of the Authority, the Authority shall promptly submit to the Commission notice of the civil sanction in such form as the Commission may require.

(b) Review by administrative law judge

(1) In general

With respect to a final civil sanction imposed by the Authority, on application by the Commission or a person aggrieved by the civil sanction filed not later than 30 days after the date on which notice under subsection (a) is submitted, the civil sanction shall be subject to de novo review by an administrative law judge.

(2) Nature of review

(A) In general

In matters reviewed under this subsection, the administrative law judge shall determine whether—

(i) a person has engaged in such acts or practices, or has omitted such acts or practices, as the Authority has found the person to have engaged in or omitted;

(ii) such acts, practices, or omissions are in violation of this chapter or the anti-doping and medication control or race-track safety rules approved by the Commission; or

(iii) the final civil sanction of the Authority was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(B) Conduct of hearing

An administrative law judge shall conduct a hearing under this subsection in such a manner as the Commission may specify by rule, which shall conform to section 556 of title 5.

(3) Decision by administrative law judge

(A) In general

With respect to a matter reviewed under this subsection, an administrative law judge—

(i) shall render a decision not later than 60 days after the conclusion of the hearing;

(ii) may affirm, reverse, modify, set aside, or remand for further proceedings, in whole or in part, the final civil sanction of the Authority; and

(iii) may make any finding or conclusion that, in the judgment of the administrative law judge, is proper and based on the record.

(B) Final decision

A decision under this paragraph shall constitute the decision of the Commission without further proceedings unless a notice or an application for review is timely filed under subsection (c).

(c) Review by Commission

(1) Notice of review by Commission

The Commission may, on its own motion, review any decision of an administrative law judge issued under subsection (b)(3) by providing written notice to the Authority and any interested party not later than 30 days after the date on which the administrative law judge issues the decision.

(2) Application for review

(A) In general

The Authority or a person aggrieved by a decision issued under subsection (b)(3) may petition the Commission for review of such decision by filing an application for review not later than 30 days after the date on which the administrative law judge issues the decision.

(B) Effect of denial of application for review

If an application for review under subparagraph (A) is denied, the decision of the administrative law judge shall constitute the decision of the Commission without further proceedings.

(C) Discretion of Commission

(i) In general

A decision with respect to whether to grant an application for review under subparagraph (A) is subject to the discretion of the Commission.

(ii) Matters to be considered

In determining whether to grant such an application for review, the Commission shall consider whether the application makes a reasonable showing that—

(I) a prejudicial error was committed in the conduct of the proceeding; or

(II) the decision involved—

(aa) an erroneous application of the anti-doping and medication control or racetrack safety rules approved by the Commission; or

(bb) an exercise of discretion or a decision of law or policy that warrants review by the Commission.

(3) Nature of review

(A) In general

In matters reviewed under this subsection, the Commission may—

(i) affirm, reverse, modify, set aside, or remand for further proceedings, in whole

or in part, the decision of the administrative law judge; and

(ii) make any finding or conclusion that, in the judgment of the Commission, is proper and based on the record.

(B) De novo review

The Commission shall review de novo the factual findings and conclusions of law made by the administrative law judge.

(C) Consideration of additional evidence

(i) Motion by Commission

The Commission may, on its own motion, allow the consideration of additional evidence.

(ii) Motion by a party

(I) In general

A party may file a motion to consider additional evidence at any time before the issuance of a decision by the Commission, which shall show, with particularity, that—

(aa) such additional evidence is material; and

(bb) there were reasonable grounds for failure to submit the evidence previously.

(II) Procedure

The Commission may—

(aa) accept or hear additional evidence; or

(bb) remand the proceeding to the administrative law judge for the consideration of additional evidence.

(d) Stay of proceedings

Review by an administrative law judge or the Commission under this section shall not operate as a stay of a final civil sanction of the Authority unless the administrative law judge or Commission orders such a stay.

(Pub. L. 116-260, div. FF, title XII, § 1209, Dec. 27, 2020, 134 Stat. 3272.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(2)(A)(ii), was in the original “this Act” and was translated as reading “this title”, meaning title XII of div. FF of Pub. L. 116-260, to reflect the probable intent of Congress.

§ 3059. Unfair or deceptive acts or practices

The sale of a covered horse, or of any other horse in anticipation of its future participation in a covered race, shall be considered an unfair or deceptive act or practice in or affecting commerce under section 45(a) of this title if the seller—

(1) knows or has reason to know the horse has been administered—

(A) a bisphosphonate prior to the horse’s fourth birthday; or

(B) any other substance or method the Authority determines has a long-term degrading effect on the soundness of the covered horse; and

(2) fails to disclose to the buyer the administration of the bisphosphonate or other sub-