TITLE 71 INDIANA HORSE RACING COMMISSION

Emergency Rule
LSA Document #06-278(E)

DIGEST

Amends 71 IAC 5.5-4-4 concerning jockey responsibility. Amends 71 IAC 7.5-6-3 concerning jockey requirements. Adds 71 IAC 7.5-6-3.5 concerning jockey apparel advertising. Amends 71 IAC 8-1-2 concerning foreign substances prohibited. Amends 71 IAC 8-1-3 concerning foreign substances allowed. Amends 71 IAC 8-1-5 concerning furosemide as a permitted foreign substance. Adds 71 IAC 8-1-5.6 concerning anti-ulcer medications. Amends 71 IAC 8-4-3 concerning administrative procedures prior to split sample testing. Amends 71 IAC 8-11-2 concerning licensee subject to testing; positive sample results. Amends 71 IAC 8.5-1-2 concerning foreign substances prohibited. Amends 71 IAC 8.5-1-3 concerning foreign substances allowed. Amends 71 IAC 8.5-1-5 concerning furosemide as a permitted foreign substance. Adds 71 IAC 8.5-1-5.6 concerning anti-ulcer medications. Amends 71 IAC 8.5-3-3 concerning administrative procedures prior to split sample testing. Amends 71 IAC 8.5-11-2 concerning licensee subject to testing; positive sample results. Repeals 71 IAC 8-1-4 and 71 IAC 8.5-1-4. Effective August 1, 2006.

71 IAC 5.5-4-4; 71 IAC 7.5-6-3; 71 IAC 7.5-6-3.5; 71 IAC 8-1-2; 71 IAC 8-1-3; 71 IAC 8-1-4; 71 IAC 8-1-5; 71 IAC 8-1-5.6; 71 IAC 8-4-3; 71 IAC 8-11-2; 71 IAC 8.5-1-2; 71 IAC 8.5-1-3; 71 IAC 8.5-1-4; 71 IAC 8.5-1-5; 71 IAC 8.5-1-5.6; 71 IAC 8.5-3-3; 71 IAC 8.5-11-2

SECTION 1. 71 IAC 5.5-4-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5.5-4-4 Jockey responsibility

Authority: IC 4-31-6-2
Affected: IC 4-31

Sec. 4. (a) A jockey shall give a best effort during a race, and each horse shall be ridden to win. A jockey shall not ease up on or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money.

(b) A jockey shall not have a valet attendant except one provided and compensated by the association.

(c) No person other than the licensed contract employer or a licensed jockey agent, may make riding arrangements for a rider, except that a jockey not represented by a jockey agent may make the jockey's own riding engagements.

(d) A jockey shall have no more than one (1) jockey agent.

(e) No revocation of a jockey agent's authority is effective until the jockey notifies the stewards in writing of the revocation of the jockey agent's authority.

(f) A jockey is required to have their colors (silks) and rain jackets tucked into their pants at all times while visible to the public. **However, during inclement weather, the stewards may permit jockeys to not tuck their rain jacket into their pants provided their silks are appropriately tied at or above the waist ensuring a uniform and tidy appearance. All rain jackets must be white.**

(Indiana Horse Racing Commission; 71 IAC 5.5-4-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2858, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2382; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 2. 71 IAC 7.5-6-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-6-3 Jockey requirements

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 3. (a) Jockeys shall report to the jockeys' quarters at the time designated by the association. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled, except as approved by the stewards.

(b) A jockey who has not fulfilled all riding engagements, who desires to leave the jockeys' quarters, must first receive the permission of the stewards and must be accompanied by an association security guard.

(c) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' quarters other than:
(1) commission personnel and officials;
(2) an owner or trainer for whom the jockey is riding;
(3) the jockey's agent; or
(4) a representative of the regular news media;
except with the permission of the stewards. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other person designated by the stewards. **Such communication may include the use of personal cell phones in a restricted area approved by the commission or its designee.**

(d) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than thirty (30) minutes before post time for each race.

(e) Only valets employed by the association shall assist jockeys in weighing out.

(f) A jockey must wear a safety vest when riding in any official race. The safety vest shall:
(1) weigh no more than two (2) pounds; and
(2) be designed to provide shock absorbing protecting to the upper body of at least a rating of five (5) as defined by the British Equestrian Trade Association (BETA).

(g) A jockey's weight shall include the jockey's clothing, boots, saddle and its attachments, and any other equipment except the:
(1) whip;
(2) bridle;
(3) bit or reins;
(4) safety helmet;
(5) safety vest;
(6) blinkers;
(7) goggles; and
(8) number cloth.

(h) Seven (7) pounds is the limit of overweight any horse is permitted to carry.

(i) Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be readmitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the stewards.

~~(j) Corporate advertising or logos on jockey's apparel shall not be permitted. The Jockey Guild emblem is the only item approved to be worn on riding pants.~~

(Indiana Horse Racing Commission; 71 IAC 7.5-6-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2871, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3409; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 21, 2003, 4:45 p.m.: 27 IR 206; emergency rule filed Feb 17, 2005, 11:48 a.m.: 28 IR 2154; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 3. 71 IAC 7.5-6-3.5 IS ADDED TO READ AS FOLLOWS:

71 IAC 7.5-6-3.5 Jockey apparel advertising

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 3.5. (a) A jockey shall not wear advertising or promotional material of any kind on clothing within one (1) hour of or during a race, unless the following criteria are met:

(1) Comply with the following size restrictions:

(A) A maximum of thirty-two (32) square inches on each thigh of the pants on the outer side between the hip and knee and ten (10) square inches on the rear of the pant at the waistline at the base of the spine.

(B) A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot.

(C) A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).

(2) The jockey is in compliance with the track rules regarding apparel advertising. Such track rules are subject to the approval of the commission.

(b) The stewards may disallow any advertising that is not in compliance with track rules or they deem to be inappropriate or in poor taste.

(c) Jockeys are permitted to place their name on their apparel in accordance with subsection (1)(C) *[subsection (a)(1)(C)]* **and wear The Jockey Guild emblem on their riding pants.**

(Indiana Horse Racing Commission; 71 IAC 7.5-6-3.5; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 4. 71 IAC 8-1-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-2 Foreign substances prohibited

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 2. (a) No horse participating in a race shall carry in its body any foreign substance except as provided by these rules. A finding by the chemist or commission designee that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his or her agents responsible for the care or custody of the horse have been negligent in the handling or care of the horse. The prohibition and allowance of foreign substances in this article shall apply to qualifying races.

(b) Upon the finding of a violation of this section, including test results or an overage of phenylbutazone, **flunixin, ketoprofen,** or furosemide in violation of these rules, the owners or lessees of the horse from which the specimen was obtained shall forfeit any purse money and any trophy or award.

(Indiana Horse Racing Commission; 71 IAC 8-1-2; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1168; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2079; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2411; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 5. 71 IAC 8-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-3 Foreign substances allowed

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 3. Phenylbutazone, **flunixin, ketoprofen,** and furosemide, when used in accordance with the test levels and guidelines set forth in sections 4 and 5 of this rule, are permitted foreign substances.

(Indiana Horse Racing Commission; 71 IAC 8-1-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1168; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2411; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 6. 71 IAC 8-1-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-5 Furosemide as a permitted foreign substance

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5. ~~The administration of furosemide shall be permitted for the prophylactic treatment of a confirmed bleeder under the following conditions and guidelines and with the approval of the commission veterinarian:~~

~~(1) Bleeder list. In order to obtain approval for the administration of furosemide, the bleeder horse must be placed on the bleeder list. An up-to-date bleeder list shall be maintained by the commission. As used in this rule, "bleeder" means a horse which demonstrates visible external evidence of exercise induced pulmonary hemorrhage or existence of hemorrhage in the trachea post exercise upon endoscopic examination. Such examination is to be performed by or in the presence of a commission veterinarian or racing veterinarian. Only horses which fall under this definition shall be placed on the bleeder list. This subsection shall not apply to horses who, in their last start, received furosemide in another jurisdiction.~~

~~(2) Endoscopic examination. The endoscopic examination provided must be conducted within one (1) hour of the finish of the race or exercise in which a horse has participated and bled, and must reveal hemorrhage in the lumen of the respiratory tract. Endoscopic examination under this rule shall be at a time and place set by the commission veterinarian and shall be conducted in his or her presence. A horse that is known to have bled upon an endoscopic examination, but not visibly from the nostrils, shall not be required to qualify, and shall have no waiting period to race. However, a horse required by this article to qualify in order to receive furosemide shall not be entered to race until after it successfully qualifies on furosemide.~~

~~(3) Confirmation. The confirmation of a bleeder horse must be certified in writing by the commission veterinarian and entered by him or her on the bleeder list. A copy of certification shall be issued to the owner of the horse or his or her agent upon request.~~

~~(4) Age. Every confirmed bleeder regardless of age shall be placed on the bleeder list.~~

~~(5) Removal from list. A horse shall be removed from the bleeder list only upon the direction of the commission veterinarian, who shall certify in writing to the judges his or her recommendations for removal.~~

(a) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

(1) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the official veterinarian or his/her designee, using the prescribed form, that they wish the horse to be put on the Furosemide List.

(2) The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification.

(3) A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry.

(4) After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of sixty (60) calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a three hundred sixty-five (365) day period, the horse may not be placed back on the list for a period of ninety (90) calendar days.

(5) Furosemide shall only be administered on association grounds.
(6) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.
~~(6)~~ **(7)** Time of treatment. Horses qualified for medication and so indicated on the official bleeder list must be treated at least four (4) hours prior to post time.
~~(7)~~ **(8)** Medication administration. Bleeder medication shall be administered by a veterinarian licensed by the commission at an intravenous dose level not to exceed ~~two~~ **five** hundred ~~fifty (250)~~ **(500)** milligrams and no less than one hundred fifty (150) milligrams. The executive director or judges may designate certain licensed official veterinarians, racing veterinarians, and/or practicing veterinarians to administer furosemide under this rule. Such designation may be determined daily, weekly, or for any other appropriate time period. Administration of furosemide shall take place in the test barn or a specific location otherwise designated by the commission. An association employee shall be present and observe the drawing of furosemide into a syringe. The administering veterinarian shall provide a factory sealed bottle of furosemide from which the draws shall be made. The association shall establish track rules for furosemide administrations that are consistent with these regulations.
~~(8)~~ **(9)** Out-of-state horses. A bleeder horse shipped into the state from another jurisdiction may be automatically eligible to receive furosemide provided that the jurisdiction from which it was shipped qualified it as a bleeder using criteria satisfactory to this state. The USTA, the breed registry foal certificate, or bleeder certificate may be utilized in determining a horse's eligibility to receive furosemide.
~~(9) Qualifying on furosemide. The following are requirements for qualifying on furosemide:~~
~~(A) Any horse being raced with furosemide at a commercial track for the first time in Indiana, in a race on which there is pari-mutuel wagering, must first race with furosemide in a chartered qualifying race. The chartered live line from such qualifying race is to appear in the daily racing program at the race track at which the horse is raced with furosemide for the first time in Indiana. Notwithstanding the provisions of this clause, a horse whose immediate preceding race is documented by reliable recorded data to have raced on furosemide shall not be required to qualify on furosemide.~~
~~(B) Once a horse has raced with furosemide, that horse must be administered furosemide every time it subsequently races for a period of not less than ninety (90) consecutive days.~~
~~(C) After a horse has raced with furosemide for a period of at least ninety (90) consecutive days and the owner or trainer then decides the horse no longer needs furosemide, the owner or trainer may, upon written notice to the judges, cease the use of furosemide. That horse must then subsequently race without furosemide for a period of not less than thirty (30) consecutive days.~~
~~(D) After a horse raced with furosemide for at least ninety (90) consecutive days and is to be raced for the first time without furosemide, in a race at a track on which there is pari-mutuel racing, the horse must first race without furosemide in a chartered qualifying race. The chartered live line from such a qualifying race must appear in the daily racing program at the race track at which the horse is racing without furosemide, for the first time in Indiana after having raced for at least ninety (90) consecutive days with furosemide.~~
(10) The test level of furosemide under this rule shall not be in excess of one hundred (100) nanograms per milliliter of plasma and shall not be below a urine specific gravity of one and ten one-thousandths (1.010). If an insufficient volume of urine is obtained, a positive test shall be based upon quantitative testing performed on blood plasma only. Split sample testing shall be quantitative and be performed on blood plasma only.

(Indiana Horse Racing Commission; 71 IAC 8-1-5; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1169; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2914; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1501; errata filed Feb 9, 1995, 2:00 p.m.: 18 IR 1481; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2877, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2079; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2411; errata filed Oct 15, 1998, 12:38 p.m.: 22 IR 759; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3132, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2218; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 7. 71 IAC 8-1-5.6 IS ADDED TO READ AS FOLLOWS:

71 IAC 8-1-5.6 Anti-ulcer medications

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5.6. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered:
(1) Cimetidine (Tagamet®) – 8-20 mg/kg PO BID-TID
(2) Omeprazole (Gastrogard®) – 2.2 grams PO SID
(3) Ranitidine (Zantac®) – 8 mg/kg PO BID

(Indiana Horse Racing Commission; 71 IAC 8-1-5.6; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 8. 71 IAC 8-4-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-4-3 Administrative procedures prior to split sample testing

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 3. (a) The results of all tests performed by the primary laboratory are confidential and shall only be communicated to the commission, judges, owner, and trainer. The trainer shall be responsible for promptly notifying the owner of a horse of a positive test as reported by the primary laboratory.

(b) The trainer or owner of a horse for which a positive result on a drug test is returned may request that the judges submit the retained part of the specimen for testing in accordance with this section. The specimen must be tested by a laboratory that is identified on the list of approved laboratories maintained by the commission and acceptable to the following:
(1) The commission.
(2) The primary laboratory.
The request must be in writing and must be delivered to the judges not later than seventy-two (72) hours after the trainer has received notice of a positive test result. Notice of a positive test result may be communicated verbally to the trainer. Failure to request testing of a split sample within seventy-two (72) hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

(c) The trainer or owner may elect to waive his or her right to testing of a split sample.

(d) The owner or trainer of a horse who submits a specimen for drug testing is entitled to be present or have a representative present at any time that the retained part of the specimen is prepared for storage or is tested.

(e) The owner or trainer of a horse who submits a specimen for testing to a split sample laboratory must execute a hold harmless agreement for the split sample laboratory and an agreement that the results of the split sample laboratory can be introduced as evidence in any hearing. The agreements shall remain in the hands of the judges of the state in which the positive was reported.

(f) The trainer or owner may request that negative control samples be tested with the split sample. The identities of the negative control samples and the split sample shall be known only to the commission.

(g) The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, **flunixin, ketoprofen,** and furosemide, is sufficient for a finding of a positive test.

(Indiana Horse Racing Commission; 71 IAC 8-4-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1173; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2916; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1504; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:05 p.m.: 21 IR 4231; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 9. 71 IAC 8-11-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-11-2 Licensee subject to testing; positive sample results

Authority: IC 4-31-3-9
Affected: IC 4-31-8-4

Sec. 2. A permit holder shall provide an alcohol breath testing device that is approved by the commission and operated by a person certified to use such a device. All drivers, judges, starters, and drivers of starting gates shall submit to a breath test at each program in which they participate. **Any licensee on the track surface during training hours or any licensee scheduled to drive in a qualifying race is subject to testing at the discretion of the judges.** In addition, the racing secretary, the judges, the commission director of security, or the track chief of security may order a licensee to submit to a breath test at any time there is reason to believe the licensee may have consumed sufficient alcohol to cause the licensee to fail a breath test. A positive test result as defined by 71 IAC 8.5-11-1(b) shall be prima facia *[sic.]* evidence that there has been a violation of 71 IAC 8.5-11-1. In the event of such positive test, it is presumed that:

(1) the breath sample tested is taken from the person and its integrity has been preserved;
(2) all accompanying procedures of collection and analysis of this sample are correct and accurate; and
(3) the report issued by the commission pertains to the sample taken from the person in question correctly reflects the condition of the person at the time of the sample was given.

With respect to the presumptions set forth in this section, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter which is conducted by the stewards or by the commission.

(Indiana Horse Racing Commission; 71 IAC 8-11-2; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1177; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1671, eff Feb 24, 2000; errata filed Mar 13, 2000, 7:36 a.m.: 23 IR 1656; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 10. 71 IAC 8.5-1-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-2 Foreign substances prohibited

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 2. (a) No horse participating in a race shall carry in its body any foreign substance except as provided by these rules. A finding by the chemist or commission designee that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his or her agents responsible for the care or custody of the horse have been negligent in the handling or care of the horse.

(b) Upon a finding of a violation of this section, including test results or an overage of phenylbutazone, **flunixin, ketoprofen,** or furosemide in violation of these rules, the owners or lessees of the horse from which the specimen was obtained shall forfeit any purse money and any trophy or award.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2893; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 11. 71 IAC 8.5-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-3 Foreign substances allowed

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 3. Phenylbutazone, **flunixin, ketoprofen,** and furosemide, when used in accordance with the test levels and guidelines set forth in sections **4 4.1** and 5 of this rule, are permitted foreign substances.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2420; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 12. 71 IAC 8.5-1-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-5 Furosemide as a permitted foreign substance

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5. ~~The administration of furosemide shall be permitted for the prophylactic treatment of a confirmed bleeder under the following conditions and guidelines and with the approval of the commission veterinarian:~~

~~(1) Bleeder list. In order to obtain approval for the administration of furosemide, the bleeder horse must be placed on the bleeder list. An up-to-date bleeder list shall be maintained by the commission. As used in this rule, "bleeder" means a horse which demonstrates visible external evidence of exercise induced pulmonary hemorrhage or existence of hemorrhage in the trachea post exercise upon endoscopic examination. Such examination is to be performed by or in the presence of a commission veterinarian or racing veterinarian. Only horses which fall under this definition shall be placed on the bleeder list. This subsection shall not apply to horses who, in their last start, received furosemide in another jurisdiction.~~

~~(2) Endoscopic examination. The endoscopic examination provided must be conducted within one (1) hour of the finish of the race or exercise in which a horse has participated and bled, and must reveal hemorrhage in the lumen of the respiratory tract. Endoscopic examination under this rule shall be at a time and place set by the commission veterinarian and shall be conducted in his or her presence. A horse that is known to have bled upon an endoscopic examination, but not visibly from the nostrils.~~

~~(3) Confirmation. The confirmation of a bleeder horse must be certified in writing by the commission veterinarian and entered by him or her on the bleeder list. A copy of certification shall be issued to the owner of the horse or his or her agent upon request.~~

~~(4) Age. Every confirmed bleeder regardless of age shall be placed on the bleeder list.~~

~~(5) Removal from list. A horse shall be removed from the bleeder list only upon the direction of the commission veterinarian, who shall certify in writing to the stewards his or her recommendations for removal.~~

(a) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

(1) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the official veterinarian or his/her designee, using the prescribed form, that they wish the horse to be put on the Furosemide List.

(2) The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification.

(3) A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry.

(4) After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of sixty (60) calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a three hundred sixty-five (365) day period, the horse may not be placed back on the list for a period of ninety (90) calendar days.

(5) Furosemide shall only be administered on association grounds.

(6) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.

~~(6)~~ **(7)** Time of treatment. Horses qualified for medication and so indicated on the official bleeder list must be

treated at least four (4) hours prior to post time.

~~(7)~~ **(8)** Medication administration. Bleeder medication shall be administered by a veterinarian licensed by the commission at an intravenous dose level not to exceed ~~two~~ **five** hundred ~~fifty (250)~~ **(500)** milligrams and no less than one hundred fifty (150) milligrams. The executive director or stewards may designate certain licensed official veterinarians, racing veterinarians, and/or practicing veterinarians to administer furosemide under this rule. Such designation may be determined daily, weekly, or for any other appropriate time period. Administration of furosemide shall take place in the ~~horse's stall~~ **test barn** or a specific location otherwise designated by the commission. An association employee shall be present and observe the drawing of furosemide into a syringe. The administering veterinarian shall provide a factory sealed bottle of furosemide from which the draws shall be made. The association shall establish track rules for furosemide administrations that are consistent with these regulations.

~~(8)~~ **(9)** Out-of-state horses. A bleeder horse shipped into the state from another jurisdiction may be automatically eligible to receive furosemide provided that the jurisdiction from which it was shipped qualified it as a bleeder using criteria satisfactory to this state. The Daily Racing Form, Equibase, the breed registry foal certificate, or bleeder certificate may be utilized in determining a horse's eligibility to receive furosemide.

~~(9)~~ **(10)** The test level of furosemide under this rule shall not be in excess of one hundred (100) nanograms per milliliter of plasma and shall not be below a urine specific gravity of one and ten one-thousandths (1.010). If an insufficient volume of urine is obtained, a positive test shall be based upon quantitative testing performed on blood plasma only. Split sample testing shall be quantitative and be performed on blood plasma only.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3413; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2893; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2420; errata filed Oct 15, 1998, 12:39 p.m.: 22 IR 759; emergency rule filed Jun 8, 1999, 9:30 a.m.: 22 IR 3123, eff May 26, 1999 [NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2223; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 13. 71 IAC 8.5-1-5.6 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-1-5.6 Anti-ulcer medications

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5.6. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered:

(1) Cimetidine (Tagamet®) – 8-20 mg/kg PO BID-TID
(2) Omeprazole (Gastrogard®) – 2.2 grams PO SID
(3) Ranitidine (Zantac®) – 8 mg/kg PO BID

(Indiana Horse Racing Commission; 71 IAC 8.5-1-5.6; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 14. 71 IAC 8.5-3-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-3-3 Administrative procedures prior to split sample testing

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 3. (a) The results of all tests performed by the primary laboratory are confidential and shall only be communicated to the commission, stewards, owner, and trainer. The trainer shall be responsible for promptly notifying the owner of a horse of a positive test as reported by the primary laboratory.

(b) The trainer or owner of a horse for which a positive result on a drug test is returned may request that the stewards submit the retained part of the specimen for testing in accordance with this section. The specimen must

be tested by a laboratory that is identified on the list of approved laboratories maintained by the commission and acceptable to the following:

(1) The commission.

(2) The primary laboratory.

The request must be in writing and must be delivered to the stewards not later than seventy-two (72) hours after the trainer has received notice of a positive test result. Notice of a positive test result may be communicated verbally to the trainer. Failure to request testing of a split sample within seventy-two (72) hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

(c) The trainer or owner may elect to waive his or her right to testing of a split sample.

(d) The owner or trainer of a horse who submits a specimen for drug testing is entitled to be present or have a representative present at any time that the retained part of the specimen is prepared for storage or is tested.

(e) The owner or trainer of a horse who submits a specimen for testing to a split sample laboratory must execute a hold harmless agreement for the split sample laboratory and an agreement that the results of the split sample laboratory can be introduced as evidence in any hearing. The agreements shall remain in the hands of the stewards of the state in which the positive was reported.

(f) The trainer or owner may request that negative control samples be tested with the split sample. The identities of the negative control samples and the split sample shall be known only to the commission.

(g) The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, **flunixin, ketoprofen,** and furosemide, is sufficient for a finding of a positive test.

(Indiana Horse Racing Commission; 71 IAC 8.5-3-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2883, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:08 p.m.: 21 IR 4232; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 15. 71 IAC 8.5-11-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-11-2 Licensee subject to testing; positive sample results

Authority: IC 4-31-3-9
Affected: IC 4-31-8-4

Sec. 2. A permit holder shall provide an alcohol breath testing device that is approved by the commission and operated by a person certified to use such a device. All jockeys, stewards, starters, and assistant starters shall submit to a breath test at each program in which they participate. **Any licensee on the track surface during training hours is subject to testing at the discretion of the stewards.** In addition, the stewards, the commission director of security, or the track chief of security may order a licensee to submit to a breath test at any time there is reason to believe the licensee may have consumed sufficient alcohol to cause the licensee to fail a breath test. A positive test result as defined by 71 IAC 8.5-11-1(b) *[section 1(b) of this rule]* shall be prima facia *[sic.]* evidence that there has been a violation of 71 IAC 8.5-11-1 *[section 1 of this rule]*. In the event of such positive test, it is presumed that:

(1) the breath sample tested is taken from the person and its integrity has been preserved;

(2) all accompanying procedures of collection and analysis of this sample are correct and accurate; and

(3) the report issued by the commission pertains to the sample taken from the person in question correctly reflects the condition of the person at the time of the sample was given.

With respect to the presumptions set forth in this section, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter, which is conducted by the stewards or by the commission.

(Indiana Horse Racing Commission; 71 IAC 8.5-11-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888,

eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2785; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006)

SECTION 16. THE FOLLOWING ARE REPEALED: 71 IAC 8-1-4; 71 IAC 8.5-1-4.

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