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**TITLE 71 INDIANA HORSE RACING COMMISSION**

**Emergency Rule**  
LSA Document #15-71(E)

**DIGEST**

Amends [71 IAC 5.5-3-1](#) regarding trainer education. Amends [71 IAC 8-1-7](#) and [71 IAC 8.5-1-7](#) regarding drug classifications and penalties. Amends [71 IAC 8-1-9](#) and [71 IAC 8.5-1-9](#) regarding environmental contaminants and substances of human use. Amends [71 IAC 8-3-5](#) and [71 IAC 8.5-2-5](#) regarding out of competition testing. Effective March 16, 2015.

[71 IAC 5.5-3-1](#); [71 IAC 8-1-7](#); [71 IAC 8-1-9](#); [71 IAC 8-3-5](#); [71 IAC 8.5-1-7](#); [71 IAC 8.5-1-9](#); [71 IAC 8.5-2-5](#)

SECTION 1. [71 IAC 5.5-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 5.5-3-1](#) Eligibility**

**Authority:** [IC 4-31-6-2](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) An applicant for a license as trainer or assistant trainer shall:

- (1) be at least eighteen (18) years of age; and
- (2) be qualified, as determined by the stewards or other commission designee, by reason of experience, background, and knowledge of racing.

(b) A trainer's license from another jurisdiction, having been issued within a prior period as determined by the commission, may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one (1) or more of the following:

- (1) A written examination.
- (2) An interview or oral examination.
- (3) A demonstration of practical skills in a barn test.

(c) An applicant not previously licensed as a trainer shall be required to pass a written or oral examination and a demonstration of practical skills, administered by the stewards, prior to being licensed as a trainer.

(d) Each licensed trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership of a horse registered with the racing secretary shall be approved by the stewards. Each owner shall comply with all licensing requirements.

(e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the stewards. Each trainer shall comply with all licensing requirements.

(f) The commission may deny, suspend, or revoke a trainer's license for the spouse, member of the immediate family, or household of a person ineligible to be licensed as a trainer, unless there is a showing, by clear and convincing evidence, on the part of the licensed trainer, applicant, or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to a trainer who would circumvent the intent of a commission rule or ruling is prohibited.

(g) The commission's designee may refuse a trainer's license for the spouse, member of the immediate family, or household of a person ineligible to be licensed as a trainer, unless there is a showing, by clear and convincing evidence, on the part of the licensed trainer, applicant, or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person.

(h) To the extent the commission or its designee obtains information that raises a reasonable suspicion that

any other person may be serving as a substitute for a person ineligible to be licensed as a trainer, any horse that the substitute is training may be placed on the stewards' list. In such event, any horse involving an issue of the true and bona fide trainer is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of [71 IAC 7.5-5-2](#).

(i) Beginning in 2014, trainers must demonstrate, prior to licensure, that they have attended a three (3) hour continuing education course approved by the commission within the past two (2) calendar years. Trainers completing an approved continuing education course in 2011 or 2012 will have met this requirement through the 2014 racing season. The continuing education requirement does not apply to trainers who have started horses six (6) or fewer times in Indiana the previous year. Such trainers may start up to six (6) horses in a year before he or she must fulfill the continuing education requirement. The following qualifications will exempt a trainer from being required to complete the continuing education requirement:

- (1) member of the Official National Thoroughbred Racing Hall of Fame or the American Quarter Horse Hall of Fame;
- (2) recipient of an Eclipse Award for Trainer of the Year;
- (3) trainer of a horse at the time the horse earned an Eclipse Award for Horse of the year;
- (4) trainer of a horse at the time the horse won a Triple Crown race; or
- (5) trainer of a horse at the time the horse won a Breeders' Cup World Thoroughbred Championship race.

(Indiana Horse Racing Commission; [71 IAC 5.5-3-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2855, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Mar 23, 2010, 1:27 p.m.: [20100331-IR-071100170ERA](#); emergency rule filed Mar 8, 2012, 11:43 a.m.: [20120321-IR-071120117ERA](#); emergency rule filed Aug 20, 2013, 12:31 p.m.: [20130821-IR-071130404ERA](#); emergency rule filed Dec 23, 2013, 1:43 p.m.: [20140108-IR-071130567ERA](#); emergency rule filed Feb 25, 2014, 12:34 p.m.: [20140226-IR-071140063ERA](#); emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#))

SECTION 2. [71 IAC 8-1-7](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8-1-7](#) Drug classification and penalties**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 7. (a) Except as provided in **subsection (b)**, upon a finding of a violation of this rule, the judges shall consider the classification level of the violation as currently established by the Uniform Classification Guidelines of Foreign Substances and Recommended Penalties and Model Rule as revised by the ARCI in August 1996 and any other subsequent revision effective after said date, which are incorporated by reference herein, and impose penalties and disciplinary measures consistent with the recommendations contained therein. Provided, however, that in the event a majority of the judges determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty. In the event a majority of the judges wish to impose a greater penalty or a penalty in excess of the authority granted them, then, and in such event, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action.

(b) Cobalt shall carry a category "A" "B" penalty, as established by the Recommended Penalties and Model Rule, regardless of its presence in a post-race or out of competition sample. **The judges shall consider levels less than fifty (50) parts per billion a mitigating factor and levels of one hundred (100) parts per billion or more an aggravating factor when determining penalties.**

(Indiana Horse Racing Commission; [71 IAC 8-1-7](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1170; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2413; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Sep 30, 2014; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#)) NOTE: Expiration postponed by Executive Order #13-27, posted at [20140108-IR-GOV130576EOA](#).

SECTION 3. [71 IAC 8-1-9](#) IS AMENDED TO READ AS FOLLOWS:

## **71 IAC 8-1-9 Environmental contaminants and substances of human use**

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

**Affected:** IC 4-31-12

Sec. 9. (a) Substances described in subsection (b) are recognized as either:

- (1) environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during cultivation, processing, treatment, storage, or transportation phases; or
- (2) substances of human use and addiction and which could be found in the horse due to its close association with humans.

(b) Regulatory thresholds have been set for the following substances:

- (1) Arsenic – not to exceed three-tenths (0.3) micrograms per milliliter total arsenic in urine.
- (2) Caffeine – not to exceed one hundred (100) nanograms per milliliter of caffeine in serum or plasma.
- (3) Cobalt – not to exceed twenty-five (25) parts per billion of cobalt in serum or plasma. A sample from a horse tested and found by the commission's primary lab to have cobalt in excess of this threshold shall be placed and remain on the veterinarian's list until the concentration of cobalt in serum or plasma has fallen below the designated threshold, **or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.**
- (4) Estranediol – not to exceed forty-five one-thousandths (.045) micrograms per milliliter of free plus conjugated 5 $\beta$ -estrane-3 $\beta$ ,17 $\beta$ -diol, in the urine of male horses other than geldings.
- (5) Hydrocortisone – not to exceed one (1) microgram per milliliter of hydrocortisone in urine.
- (6) Methoxytyramine – not to exceed four (4) micrograms per milliliter of free plus conjugated methoxytyramine in urine.
- (7) Salicylate and salicylate acid – not to exceed seven hundred fifty (750) micrograms per milliliter of salicylate and salicylate acid in urine or six and one-half (6.5) micrograms per milliliter of salicylate and salicylate acid in serum or plasma.
- (8) Theobromine – not to exceed two (2) micrograms per milliliter of theobromine in urine or three-tenths (0.3) micrograms per milliliter in serum or plasma.

(c) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use, it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer.

*(Indiana Horse Racing Commission; [71 IAC 8-1-9](#); emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); emergency rule filed Jul 3, 2014, 11:57 a.m.: [20140709-IR-071140251ERA](#); emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Sep 30, 2014; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#))*

SECTION 4. [71 IAC 8-3-5](#) IS AMENDED TO READ AS FOLLOWS:

## **71 IAC 8-3-5 Out of competition testing**

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

**Affected:** IC 4-31-12

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

- (1) on an owner's or trainer's license application; or
- (2) a stall application, nomination list; or
- (3) on the horse sign-in sheet at any time during the meet; or
- (4) has raced at any Indiana race meet during the calendar year.

A horse shall be presumed eligible if it is a racing breed, at least two (2) years old and an Indiana bred or sired

horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this regulation by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana, pursuant to subsection (b) below provided that the owner of such an Indiana bred or sired horse provides such written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b) below.

(b) If a horse to be tested is not covered under subsection (a), the executive director or judges may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or judges may order any horse of a licensed trainer to report to a track under the jurisdiction of the commission for out of competition testing. The trainer is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission, a veterinary technician under the direct supervision of the official veterinarian, or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives must arrive for the taking of blood, urine, or hair samples from an eligible horse as defined in subsections [subsection] (a) or (b), only between the hours of 7:00 a.m. and noon, after announcing their presence at the premises where the horse(s) to be tested is (are) located and showing their credentials to collect samples from the horse(s) selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse(s). If neither is available, the collection will be deferred until the trainer and/or owner, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner and/or trainer of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, and/or summary suspension. It is a defense to any action brought against an owner and/or trainer for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner, trainer, and/or their representative or designee from complying with the time limits set forth in this subsection. The owner, trainer, and/or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, and procedures are defined as the following:

(1) Blood doping agents including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.

- (2) Gene doping agents or the nontherapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.
- (3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.
- (4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.
- (5) AAS (androgenic-anabolic steroids) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8-1-8\(f\)](#); and
- (6) Cobalt in excess of the threshold provided in [71 IAC 8-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, **or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.**
- (7) The presence in a horse of any substance at anytime listed in subdivision (1), (2), (3), (4), or (5) in an eligible as defined in subsections (a) and (b) above is prohibited and is a violation of this rule.

- (g) The trainer and/or his/her designees shall cooperate with the official veterinarian or any licensed veterinarian or licensed veterinary technician authorized by the commission or any commission employee by:
  - (1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and
  - (2) providing a stall or safe location to collect the samples.

The executive director or judges may summarily suspend, exclude, and/or otherwise penalize any trainer and/or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she/he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

- (h) The collection of blood, urine, or hair samples under this rule shall be divided in three (3) parts to be analyzed as follows:

- (1) approved primary laboratory for screening;
- (2) approved primary laboratory for confirmation; and
- (3) approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

- (i) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2) of this rule [*subsection (f)(1) and (f)(2)*]. The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of (f)(3), (f)(4), and (f)(5) of this rule [*subsection (f)(3), (f)(4), and (f)(5)*] with additional penalties for any drug not FDA approved for use in horses.

(Indiana Horse Racing Commission; [71 IAC 8-3-5](#); emergency rule filed Jul 23, 2007, 9:16 a.m.:

[20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.:

[20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.:

[20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#))



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SECTION 5. [71 IAC 8.5-1-7](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 8.5-1-7](#) Drug classification and penalties**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 7. (a) Except as provided in **subsection (b)**, upon a finding of a violation of this rule, the stewards shall consider the classification level of the violation as currently established by the Uniform Classification Guidelines of Foreign Substances and Recommended Penalties and Model Rule as revised by the ARCI in August 1996 and any other subsequent revision effective after said date, which are incorporated by reference herein, and impose penalties and disciplinary measures consistent with the recommendations contained therein. Provided, however, that in the event a majority of the stewards determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty. In the event a majority of the stewards wish to impose a greater penalty or a penalty in excess of the authority granted them, then, and in such event, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action.

(b) Cobalt shall carry a category "A" "B" penalty, as established by the Recommended Penalties and Model Rule, regardless of its presence in a post-race or out of competition sample. **The stewards shall consider levels less than fifty (50) parts per billion a mitigating factor and levels of one hundred (100) parts per billion or more an aggravating factor when determining penalties.**

*(Indiana Horse Racing Commission; [71 IAC 8.5-1-7](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2881, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2421; errata filed Mar 5, 1998, 1:46 p.m.: 21 IR 2392; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Sep 30, 2014; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#)) NOTE: Expiration postponed by Executive Order #13-27, posted at [20140108-IR-GOV130576EOA](#).*

SECTION 6. [71 IAC 8.5-1-9](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 8.5-1-9](#) Environmental contaminants and substances of human use**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 9. (a) Substances described in subsection (b) are recognized as either:

- (1) environmental containments *[sic]* in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during cultivation, processing, treatment, storage, or transportation phases; or
- (2) substances of human use and addiction and which could be found in the horse due to its close association with humans.

(b) Regulatory thresholds have been set for the following substances:

- (1) Arsenic – not to exceed three-tenths (0.3) micrograms per milliliter total arsenic in urine.
- (2) Caffeine – not to exceed one hundred (100) nanograms per milliliter of caffeine in serum or plasma.
- (3) Cobalt—not to exceed twenty-five (25) parts per billion of cobalt in serum or plasma. A sample from a horse tested and found by the commission's primary lab to have cobalt in excess of this threshold shall be placed and remain on the veterinarian's list until the concentration of cobalt in serum or plasma has fallen below the designated threshold, **or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.**
- (4) Estranediol – not to exceed forty-five one-thousandths (.045) micrograms per milliliter of free plus conjugated 5#-estrane-3#,17#-diol, in the urine of male horses other than geldings.
- (5) Hydrocortisone – not to exceed one (1) microgram per milliliter of hydrocortisone in urine.
- (6) Methoxytyramine – not to exceed four (4) micrograms per milliliter of free plus conjugated methoxytyramine in urine.
- (7) Salicylate and salicylate acid – not to exceed seven hundred fifty (750) micrograms per milliliter of salicylate and salicylate acid in urine or six and one-half (6.5) micrograms per milliliter of salicylate and

salicylate acid in serum or plasma.

(8) Theobromine – not to exceed two (2) micrograms per milliliter of theobromine in urine or three-tenths (0.3) micrograms per milliliter in serum or plasma.

(c) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer.

*(Indiana Horse Racing Commission; [71 IAC 8.5-1-9](#); emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Jul 3, 2014, 11:57 a.m.: [20140709-IR-071140251ERA](#); emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Sep 30, 2014; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#))*

SECTION 7. [71 IAC 8.5-2-5](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 8.5-2-5](#) Out of competition testing**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of a trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

- (1) on an owner's or trainer's license application; or
- (2) a stall application, nomination list; or
- (3) on the horse sign-in sheet at any time during the meet; or
- (4) has raced at any Indiana race meet during the calendar year.

A horse shall be presumed eligible if it is a racing breed, at least two (2) years old and an Indiana bred or sired horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this regulation by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana, pursuant to subsection (b) below provided that the owner of such an Indiana bred or sired horse provides such written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b) below.

(b) If a horse selected to be tested is not covered under subsection (a), the executive director or stewards may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or stewards may order any horse of a licensed trainer to report to a track under the jurisdiction of the commission for out of competition testing. The trainer is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of

competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission or a veterinary technician under the direct supervision of the official veterinarian, or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives must arrive for the taking of blood, urine, or hair samples from an eligible horse as defined in subsections [subsection] (a) or (b), only between the hours of 7:00 a.m. and noon, after announcing their presence at the premises where the horse(s) to be tested is (are) located and showing their credentials to collect samples from the horse(s) selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse(s). If neither is available, the collection will be deferred until the trainer and/or owner, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner and/or trainer of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, and/or summary suspension. It is a defense to any action brought against an owner and/or trainer for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner, trainer, and/or their representative or designee from complying with the time limits set forth in this subsection. The owner, trainer, and/or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, and procedures are defined as the following:

(1) Blood doping agents including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.

(2) Gene doping agents or the nontherapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

(3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.

(4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.

(5) AAS (androgenic-anabolic steroids) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8.5-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8.5-1-8\(f\)](#); and

(6) Cobalt in excess of the threshold provided in [71 IAC 8.5-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, **or until the conclusion of the race meet.**

**However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.**

(7) The presence in a horse of any substance at anytime listed in subdivision (f)(1), (f)(2), (f)(3), (f)(4), or (f)(5) [subdivision (1), (2), (3), (4), or (5)] in an eligible as defined in subsections (a) and (b) above is prohibited and is a violation of this rule.

(g) The trainer and/or his/her designees shall cooperate with the official veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, or any commission employee by:

(1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and

(2) providing a stall or safe location to collect the samples.

The executive director or stewards may summarily suspend, exclude, and/or otherwise penalize any trainer and/or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she/he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause



defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

(h) The collection of blood, urine, or hair samples under this rule shall be divided in three (3) parts to be analyzed as follows:

- (1) approved primary laboratory for screening;
- (2) approved primary laboratory for confirmation; and
- (3) approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

(i) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2) of this rule *[subsection (f)(1) and (f)(2)]*. The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of (f)(3), (f)(4), and (f)(5) of this rule *[subsection (f)(3), (f)(4), and (f)(5)]* with additional penalties for any drug not FDA approved for use in horses.

*(Indiana Horse Racing Commission; [71 IAC 8.5-2-5](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#))*

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