

Document: Emergency Rule, **Register Page Number:** 26 IR 55

Source: October 1, 2002, Indiana Register, Volume 26, Number 1

Disclaimer: This document was created from the files used to produce the official Indiana Register. However, this document is unofficial.

TITLE 71 INDIANA HORSE RACING COMMISSION

LSA Document #02-250(E)

DIGEST

Amends 71 IAC 5.5-5-3 concerning responsibilities of jockey agents to file a commission provided form for each jockey he or she represents. Amends 71 IAC 6.5-1-4 concerning the clarification on claiming prohibitions. Adds 71 IAC 7.5-10-1 concerning quarter horse time trials. Adds 71 IAC 8.5-4-8 concerning practicing veterinarians providing notice of scratches in writing. Adds 71 IAC 8.5-5-2 concerning prohibited practices banning certain drugs or substances consistent with RCI recommendations. Amends 71 IAC 8.5-10-6 concerning the clarification of penalties for human drug positives. Effective August 20, 2002.

71 IAC 5.5-5-3

71 IAC 8.5-4-8

71 IAC 6.5-1-4

71 IAC 8.5-5-2

71 IAC 7.5-10

71 IAC 8.5-10-6

SECTION 1. 71 IAC 5.5-5-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5.5-5-3 Responsibilities

Authority: IC 4-31-6-2

Affected: IC 4-31

Sec. 3. (a) A jockey agent shall not make or assist in making engagements for a jockey other than the jockeys the agent is licensed to represent.

(b) A jockey agent shall ~~file written proof of~~ **have completed the appointment of jockey agent form provided by the commission for all agencies and changes of agencies with the stewards.** ~~jockeys he represents. Furthermore, the agent shall complete the revocation of appointment when the agent withdraws or is discharged from representation. Such form shall be filed with the stewards prior to the first draw in which a jockey is listed to ride.~~

(c) A jockey agent shall notify the stewards, in writing, prior to withdrawing from representation of a jockey and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

(d) All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

(e) **The stewards may require a jockey agent located outside Indiana, whose jockey is licensed and riding in Indiana, to secure an Indiana license and file any applicable forms.** *(Indiana Horse Racing Commission; 71 IAC 5.5-5-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2859, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 55)*

SECTION 2. 71 IAC 6.5-1-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6.5-1-4 Prohibitions

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. (a) A person shall not claim a horse in which the person has a financial or beneficial interest as an owner or trainer.

(b) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(c) A person shall not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race.

(d) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

(e) A person shall not file a claim more than one (1) horse in a race or file more than one (1) claim for the same horse. **However, owners utilizing the same trainer may claim different horses from the same race.**

(f) A person shall not claim more than one (1) horse in a race. However, owners utilizing the same trainer may claim different horses from the same race.

~~(g)~~ (g) A horse claimed in this jurisdiction shall not race outside Indiana until after the conclusion of the race meet without the permission of the stewards.

~~(g)~~ (h) The association shall ensure the claim box is locked. The association shall unlock the claim box only after the deadline for claiming a horse has passed. *(Indiana Horse Racing Commission; 71 IAC 6.5-1-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2862, eff Jul 1, 1995; emergency rule filed June 8, 1999, 9:30 a.m.: 22 IR 3121, 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.]; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 55)*

SECTION 3. 71 IAC 7.5-10 IS ADDED TO READ AS FOLLOWS:

Rule 10. Quarter Horse Time Trials

71 IAC 7.5-10-1 Time trials

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. Recommended rules for time trials:

(1) Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten (10) horses.

(2) The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten (10) fastest times shall qualify to participate in the finals. If the time trials are conducted on two (2) days, the horses with the five (5) fastest times on the first day and the horses with the five (5) fastest times on the second day shall qualify to participate in the finals. When time trials are conducted on two (2) days, the racing office should make every attempt to split owners with more than one (1) entry into separate days so that the owner's horses have a chance at all ten (10) qualifying positions. The racing secretary shall try to separate trainers and then jockeys from having more than one (1) horse in a time trial.

(3) If the association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.

(4) If only eleven (11) or twelve (12) horses are entered to run in time trials from a gate with twelve (12) or more stalls, the association may choose to run finals only. If eleven (11) or twelve (12) horses participate in the finals, only the first ten (10) finishers will receive purse money unless the conditions of the race specify otherwise. This provision shall not apply to two (2) year old races.

(5) In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in

the time trial will be determined to the limit of the timer. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish shall also determine the preference in qualifying for the finals. Should two or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot shall be conducted as directed by the stewards. Under no circumstances should stewards or placing judges attempt to determine horses' qualifying times in separate trials beyond the limit of the timer by comparing and/or enlarging photo-finish pictures.

(6) Except in the case of disqualifying, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.

(7) Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one-hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. In the case where a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse may be given no time plus one-hundredth (.01) of a second, or the maximum accuracy of the electronic timing device.

(8) Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three (3) official and disinterested persons. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. The other horses in that race will be given times according to the order and margins of finish with the aid of the photo-finish strip, if available.

(9) When there is a malfunction of the timer during the time trials, but the timer operates correctly in other time trials, under no circumstances should the accurate electronic times be discarded and the average of the hand times used for all time trials. (The only exemption may be if the conditions of the stakes race so states, or states that in the case of a malfunction of the timer in trials, finalists will be selected by order finish in the trials.)

(10) In the case where the accuracy of the electronic timer and/or the average of the hand times are questioned, the video of a time trial may be used to estimate the winning time by counting the number video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. This method is accurate to approximately three-hundredths (.03) seconds [*sic., second*]. Should the case arise where the timer malfunctions and there are no hand times, the stewards should have the option to select qualifiers based on the video time.

(11) Should there be a malfunction of the starting gate, and one (1) or more stall doors not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors nonstarters. The stewards should have the option, however, to allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. In the case where a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter dispatches the field, the horse must be declared a nonstarter, and all entry fees refunded. In the case where one (1) or more, but not all stall doors open at the exact moment the starter dispatches the field, these horses should be considered starters for qualifying purposes, and placed according to their electronic time. If the electronic timer malfunctions in this instance, the average of the hand times or, if not available, the video time should be utilized for the horses declared starters.

(12) There will be an also eligible list only in the case of a disqualification for a positive drug test report, ineligibility of the horse according to the conditions of the race or a disqualification by the stewards for a rule violation. Should a horse be disqualified for a positive drug test report, ineligibility of the horse according to the conditions of the race or a disqualification by the stewards for a rule violation, the next fastest qualifier shall assume the disqualified horse's position in the final.

(13) If a horse should be scratched from the time trials, the horse's owner will not be eligible for a refund of the fees paid. If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test report or a rule violation, the horse shall be deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse should be scratched from the final, for any reason other than a positive drug test report or a rule violation, then those purse monies shall be added together and divided equally among those owners.

(Indiana Horse Racing Commission; 71 IAC 7.5-10-1; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 56)

SECTION 4. 71 IAC 8.5-4-8 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-4-8 Notice in writing

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 8. No horse shall be considered scratched from a race for lameness or sickness until a scratch slip, signed by a veterinarian, is presented to the stewards and approved. Veterinarians shall report medical scratches to the stewards immediately after diagnosis. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-8; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57*)

SECTION 5. 71 IAC 8.5-5-2 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-5-2 Prohibited practices

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. (a) The possession and/or use of a drug, substance, or medication, specified below, on the premises of a facility under the jurisdiction of the commission is prohibited. These drugs or substances include those which a recognized analytical method has not been developed to detect and confirm the administration of such substance, or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider, or the use of which may adversely affect the integrity of racing:

(1) Erythropoietin.

(2) Darbepoietin.

(b) The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States is prohibited. (*Indiana Horse Racing Commission; 71 IAC 8.5-5-2; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57*)

SECTION 6. 71 IAC 8.5-10-6 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-10-6 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 6. (a) Upon a finding of a positive test, the stewards or commission shall, to the extent of its regulatory authority, impose the following sanctions:

(1) For a licensee's first violation, he or she shall be suspended for thirty (30) days and shall be subject to a mandatory drug retest after thirty (30) days from the first violation of this article. Such additional drug test shall be done by the commission testing laboratory at the licensee's expense. Until such retest achieves negative results, the licensee shall remain suspended.

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. ~~or for a period of not less than sixty (60) days, whichever is greater.~~ The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee ~~will receive a mandatory suspension of his or her license for~~ shall be suspended for a period minimum of sixty (60) days and referred to the commission for any further penalty deemed appropriate. shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The person shall

not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine samples thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

(b) Prior human controlled substance or prescription drug violations reflected on a person's racing record from any jurisdiction recognized by the commission, including Indiana, shall be counted as violations when determining appropriate penalties as set forth in subsections (a).

(c) In determining the penalty to impose for an offense covered by this rule, the stewards or the commission may consider any mitigating and/or exacerbating circumstances and make an appropriate adjustment to the penalties which are set forth in subsection (a). (*Indiana Horse Racing Commission; 71 IAC 8.5-10-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2158; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 58*)

LSA Document #02-250(E)

Filed with Secretary of State: August 20, 2002, 3:00 p.m.