

Agenda Item #1

2. On or about January 12, 2022, Mr. Whitehead withdrew from further representation of Respondent. Respondent has represented himself at all times since such withdrawal.
3. Following Mr. Whitehead's withdrawal, a telephonic discussion was conducted with the parties (including a Spanish interpreter for the benefit of Respondent) in which ALJ Buker communicated the following: (1) there are numerous deadlines, processes, technicalities and other requirements connected with the pre-hearing, hearing and post-hearing aspects of this matter about which Respondent may want to consult with an attorney; (2) ex-parte communications (i.e., communication with ALJ Buker conducted without the presence of both parties) are strictly prohibited; (3) an unrepresented party, such as Mr. Mendez, has a right to be represented by counsel or other authorized representative of his choosing; and (4) an unrepresented party, such as Mr. Mendez, will be held to the same standard of proof and other legal standards as a represented party. ALJ Buker emphasized the importance of using an experienced representative to advocate on Respondent's behalf because, among other things, (1) litigation such as this can be technical and complex, (2) failure to adhere to the various requirements and timeframes with respect to the pre-hearing, hearing and post-hearing processes could result in exclusion of evidence offered by Mr. Mendez from being considered at the Hearing, and (3) in the event of an ultimate appeal by Mr. Mendez, the record established at the Hearing generally will be relied upon by an Indiana trial court; i.e., an Indiana trial court may refuse to consider evidence if it was not properly admitted at the Hearing. Mr. Mendez, through the interpreter, expressed on more than one occasion that he intended to represent himself in this matter.
4. On March 2, 2022, a telephonic conference was held in which Respondent stated his desire to be represented by counsel, following which the Hearing calendar was suspended to allow Respondent until March 12 to retain counsel.
5. Respondent neither retained counsel by March 12, 2022 nor requested an extension of time in which to do so. Consequently, on March 17, 2022, the Hearing calendar was resumed as set forth in the Fourth Scheduling Order.
6. On April 29, 2022, Petitioner filed discovery requests, in both English and Spanish, on Respondent including Interrogatories, Requests for Admission and Requests for Production of Documents.
7. Petitioner did not receive a response from Respondent with respect to any of the discovery requests.

Recommended Order of Default Judgment (Mendez)

8. Respondent did not make himself available for deposition despite at least two (2) requests by Petitioner to do so.
9. Respondent did not file any discovery or deposition requests in this matter.
10. Respondent did not file any Witness and Exhibit lists in this matter.
11. On June 9, 2022, Respondent failed to attend the final prehearing conference for this matter and did not notify either ALJ Buker or Petitioner with respect to his absence therefrom.
12. On July 1, 2022, Petitioner filed a Motion for Default. Respondent was order to provide objections thereto, if any, on or before July 11, 2022. ALJ Buker advised the parties that a ruling would not be issued with respect to the Motion for Default until after the scheduled evidentiary Hearing on July 7, 2022 was conducted.
13. On July 7, 2022, an evidentiary Hearing for this matter was convened. Respondent did not appear for the Hearing. During the Hearing, Petitioner renewed its Motion for Default which was denied pending Respondent's opportunity to object or respond. Petitioner then moved for a continuance of the evidentiary Hearing which was granted. The evidentiary Hearing was continued until 10:00 a.m. on July 28, 2022.
14. On July 8, 2022, following the evidentiary Hearing, ALJ Buker issued an Order Regarding Motion for Default, in which Respondent was advised that, absent receipt of objections from Respondent, ALJ Buker was inclined to grant Respondent's Motion for Default based on the information contained therein. ALJ Buker also emphasized to Respondent that if a Default Order was ultimately issued pursuant to the default process, which is complex and technical, Respondent likely would not be entitled to judicial review (i.e., a hearing in state court) under IC § 4-21.5-5-4. ALJ Buker expressed that as a matter of policy in Indiana, an administrative Hearing on the merits is preferred, and Respondent, who since approximately January 12, 2022 has represented himself in this matter, was again strongly urged to retain counsel.
15. Respondent did not file a response to Petitioner's Motion for Default by July 11, 2022.
16. On July 13, 2022, ALJ Buker issued a Proposed Default Order under IC § 4-21.5-3-24(a). The Proposed Default Order provided that if Respondent did not file a response within seven days (i.e., by July 20, 2022), a Default Order would be issued under IC § 4-21.5-3-24.
17. Respondent did not file a response to the Proposed Default Order by July 20, 2022.

Recommended Order of Default Judgment (Mendez)

18. Respondent has taken no action in this matter for over 120 days; i.e., from March 2, 2022 to the date of this Order.
19. Respondent is not known to be a minor, incompetent, or on active duty in any of the armed services of the United States.
20. Indiana Code § 4-21.5-3-24(a) provides that at any stage of a proceeding, if a party fails to attend or participate in a prehearing conference, hearing, or other stage of the proceeding or takes no action on a matter for a period of sixty (60) days, then the administrative law judge may issue a notice of proposed default, including a statement of the grounds to the parties.
21. Respondent failed to attend or participate in a prehearing conference, hearing or other stage of this proceeding when he failed to attend both the June 9 final prehearing conference and the July 7, 2022 scheduled evidentiary Hearing. Moreover, Respondent has taken no action on this matter for over 120 days. Accordingly, a Proposed Default Order, including a statement of the grounds therefor, was issued under IC § 4-21.5-3-24 on July 13, 2022.
22. Indiana Code § 4-21.5-3-24(c) provides that if a party fails to respond to a proposed default order within seven days, the Administrative Law Judge shall issue an order of default. Respondent failed to respond to the Proposed Default Order within seven days and, accordingly, an order for default is required to be issued against Respondent.
23. Indiana Code § 4-21.5-5-4 provides that “a person may file a petition for judicial review ... only after exhausting all administrative remedies available.... A person who (1) fails to timely object to an order or timely petition for review of an order within the period prescribed by this article; or (2) is in default under this article; has waived the person’s right to judicial review under this chapter.”
24. Respondent failed to timely object to the Proposed Default Order. Accordingly, Respondent has waived his right to judicial review under IC § 4-21.5-5-4.

Recommended Order

It is recommended the Commission issue an Order of Default Judgment in favor of Petitioner and against Respondent.

It is further recommended the Commission enter an order to provide that Respondent is in default under IC § 4-21.5-3-24, and thus, Respondent has failed to exhaust his administrative remedies and has waived his right to judicial review under IC § 4-21.5-5-4.

It is further recommended the Commission enter judgment against Respondent as follows:

Recommended Order of Default Judgment (Mendez)

- A. Respondent shall be required to pay a \$10,000 fine;
- B. Respondent shall be suspended and remain ineligible for licensure by the Commission for a period of twenty (20) years beginning on September 4, 2021 (i.e., the date of the use of the machine in Race 1 at Indiana Grand horseracing track) through and including September 3, 2041; and
- C. The horse “Rock Candy Almighty” shall be ordered unplaced from Race 1 on September 4, 2021 at Indiana Grand horseracing track, and all monies earned in connection therewith shall be forfeited, returned and redistributed pursuant to 71 IAC 8-1-2(b).

Pursuant to IC § 4-21.5-3-29(3), Respondent or any party hereto, has fifteen (15) days following the receipt of this Recommended Order of Default Judgment to file written exceptions with the Commission.

IT IS SO RECOMMENDED THIS 20th DAY OF JULY 2022.

/s/ Michael Buker
Michael Buker
Administrative Law Judge

Recommended Order of Default Judgment (Mendez)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been duly served by email this 20th day of July 2022 to the following parties of record:

Mr. Samuel Mendez
2219 N. Private 470 W.
Shelbyville, IN 46176
samuelmendezdelaluz@gmail.com

Dale Lee Pennycuff
Indiana Horse Racing Commission
1302 North Meridian St., Suite 175
Indianapolis, IN 46202
DPennycuff@hrc.IN.gov

Matthew Eggiman
Indiana Horse Racing Commission
1302 North Meridian St., Suite 175
Indianapolis, IN 46202
MEggiman1@hrc.IN.gov

/s/ Michael Buker
Michael Buker
Administrative Law Judge
mbukeralj@gmail.com

Cc: OALP@oalp.in.gov

Recommended Order of Default Judgment (Mendez)

Agenda Item #2

TITLE 71 INDIANA HORSE RACING COMMISSION

Notice of Intent to Readopt

LSA Document #22-265

Readopts rules in anticipation of [IC 4-22-2.5-2](#), providing that an administrative rule adopted under [IC 4-22-2](#) expires January 1 of the seventh year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Publisher.

OVERVIEW: Rules to be readopted without changes are as follows:

- [71 IAC 8.5-14-1](#) Equine health; requirements
- [71 IAC 14-1-3](#) "Indiana sired and bred" defined
- [71 IAC 14.5-2-3](#) Stallion registration

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to the Small Business Regulatory Coordinator for this rule (see [IC 4-22-2-28.1](#)):

Matthew M. Eggiman
Deputy General Counsel
Indiana Horse Racing Commission
1302 North Meridian Street, Suite 175
Indianapolis, IN 46202
(317) 233-3119
meggiman1@hrc.in.gov

Statutory authority: [IC 4-31-3-9](#); [IC 4-35-7-12](#).

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

Emily Totten
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 402-3062
etotten@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

Posted: 08/24/2022 by Legislative Services Agency

An [html](#) version of this document.

Pitman, Deena

From: Eggiman, Matt
Sent: Tuesday, September 13, 2022 4:58 PM
To: astingle3@gmail.com; bkingvet@aol.com; Brian Elmore; brigandsilk@yahoo.com; bruce murphy; cduke11@aol.com; Chris@duke-racing.com; cigarhorse@aol.com; cpelbow@icloud.com; daybreakequine@aol.com; dbmcdavitt@aol.com; Dianne Bennett; dreich@comcast.net; Eichhorn, Daniel R, DVM; elizabeth.cierzniak; Eric Halstrom; fangst@bloodhorse.com; fjrdvm@aol.com; hardydvm@yahoo.com; Herb Likens; Hope, Thomas; IBOPINDY@aol.com; ISA; Jack Kieninger; Joe Putnam; joe.thompsonstable@gmail.com; joedondavis@aol.com; Joseph Morris; Julie Rossetto; keithdvm@hrtc.net; Knepp, Pauline; Lages, James; lancef@theapparelco.com; lbrodeo@aol.com; Magee, David; melracing@aol.com; mikefarwick@gmail.com; mjcollins2004@yahoo.com; mmanndvm@gmail.com; Paul Martin; pdyereqvet@sbcglobal.net; Rick Moore; Roger Young; speine@caesars.com; ssmith@jockeyclub.com; ssnyder@gotown.net; stecomst@iupui.edu; tedengel69@yahoo.com; theodoreengel28@yahoo.com; thompson_farms@hotmail.com; Tim Lambert; vickieduke7@aol.com
Cc: Pitman, Deena; Pennycuff, Dale L; Linkmeyer, Tom; Barnes, Jessica; Smith, Eric (HRC)
Subject: IHRC Proposed Rules and Re-adopts
Attachments: ReadoptedRules_LSA No. 22-265.pdf; LSA Document #22-XXX(E)_DRAFT.docx

Good Afternoon Everyone:

As some of you may be aware, each year there are a batch of rules that are set to expire because all Indiana administrative rules, regardless of agency, expire after seven years. With that said, the State allows for a process by which the rules are readopted, so long as the language remains identical, and no substantive changes are made. The attached document (ReadoptedRules_LSA No. 22-265.pdf) includes the rules that will be up for readoption at the September 28, 2022, commission meeting. There are only three this year.

Please feel free to contact me directly with your comments.

Again, please keep in mind that the rule language is identical to what is already in the rules, and none of the readoptions are permitted to include any change whatsoever. Therefore, the impact to the horsemen and racetracks should be minimal.

Also attached are the proposed rule changes for the September 28 meeting (LSA Document #22-XXX(E)_DRAFT.docx). Any and all comments on the rule changes are certainly welcome, but given the short timeframe, we request any comments be returned by **close of business on Monday, September 19, 2022**. Again, feel free to contact me directly with any comments or questions.

Sincerely,

Matt

Matthew M. Eggiman
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Indiana Horse Racing Commission
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Agenda Item #3

TITLE 71 INDIANA HORSE RACING COMMISSION

Emergency Rule

LSA Document #22-____(E)

DIGEST

Amends 71 IAC 7.5-5-1 regarding horses ineligible. Amends 71 IAC 7.5-6-5 regarding post to finish. Amends 71 IAC 8-3-5 regarding out of competition testing. Amends 71 IAC 8.5-2-5 regarding out of competition testing. Effective upon filing with the publisher.

71 IAC 7.5-5-1; 71 IAC 7.5-6-5; 71 IAC 8-3-5; 71 IAC 8.5-2-5.

SECTION 1. 71 IAC 7.5-5-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-5-1 Horses ineligible

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) A horse is ineligible to start in a race when:

- (1) it is not stabled on the grounds of the association or present by the time established by the commission;
- (2) for a quarter horse, its breed registration certificate is not on file with the racing secretary or horse identifier, unless the racing secretary has submitted the certificate to the appropriate breed registry for correction, or the information contained on the registration certificate is available to the racing secretary, or the racing secretary's designee, through the electronic registration system, however:
 - (A) the stewards, for good cause, may waive this requirement if the horse is otherwise correctly identified to the satisfaction of the stewards and identifier;
 - (B) if the electronic registration system fails for any reason, the stewards may require presentation of a horse's registration certificate prior to a horse being entered or raced in Indiana;
 - (C) the stewards may at any time require presentation of a horse's registration certificate; and
 - (D) a horse may not receive a preference date prior to entry unless the horse's registration paper is on file with the racing secretary;
- (3) it is not fully identified and tattooed on the inside of the upper lip or microchipped or identified by any other method approved by the appropriate breed registry and the commission;
- (4) if a thoroughbred, it is not duly registered and named at the registry office of the Jockey Club (New York), or, if a quarter horse, it is not duly registered with the American Quarter Horse Association;
- (5) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, or altered lip tattoo or microchip or other identification method approved by the appropriate breed registry and the commission;

- (6) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;
- (7) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
- (8) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;
- (9) its name appears on the starter's list, stewards' list, or veterinarian's list;
- (10) it is a first time starter and has not been approved to start by the starter;
- (11) it is owned in whole or in part by an undisclosed person or interest;
- (12) it lacks sufficient official published workouts or past race performances;
- (13) it has been entered in a stakes race and has subsequently been transferred with its engagements unless the racing secretary has been notified of such prior to the start;
- (14) it is subject to a lien, which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (15) it is subject to a lease not filed with the stewards;
- (16) it is not in sound racing condition;
- (17) it has had a posterior digital neurectomy (heel denerving), which has not been approved by the official veterinarian;
- (18) it has been trachea tubed to artificially assist breathing;
- (19) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (20) it has impaired eyesight in both eyes;
- (21) it is barred or suspended in any recognized jurisdiction;
- (22) it does not meet the eligibility conditions of the race;
- (23) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (24) its owners, lessors, lessees, or trainer have not completed the licensing procedures required by the commission;
- (25) it is by an unknown sire or out of an unknown mare;
- (26) there is no negative test certificate for equine infectious anemia issued within the preceding twelve (12) months on file with the association;
- (27) if a quarter horse, it has shoes (racing plates) that have toe grabs with a height greater than four (4) millimeters (fifteen thousand seven hundred forty-eight hundred-thousandths (0.15748) inches), or any other traction device on the front hooves while racing or training on all racing surfaces;
- (28) if a thoroughbred, it has shoes (racing plates) which have ~~toe grabs~~ **full rims** with a height greater than two (2) millimeters (seven thousand eight hundred seventy-four hundred-thousandths (0.07874) inches), bends, jar caulks, stickers, or any other traction device on the front hooves while racing or training on ~~all~~ **any** racing surfaces; **or if it has shoes (racing plates) that have toe grabs with a height greater than four (4) millimeters (fifteen-thousand-seven-hundred-forty-eight hundred-thousandths (0.15748) inches) or any other traction device on the hind limbs while racing or training on any racing surface;**
- (29) it has reached the age of twelve (12) years;

- (30) it is a maiden that has reached the age of six (6) years or older with fewer than six (6) starts;
- (31) the race date is within ten (10) days of having extracorporeal shock wave or radial pulse wave therapy; or
- (32) it has not made an official start in the previous two hundred forty (240) days, or it is a first-time starter that has reached the age of four (4) years, and it has not fulfilled the requirements set forth in 71 IAC 7.5-4-1(b).

(b) The stewards may consider extenuating circumstances in determining ineligibility of a horse with respect to subsection (a)(1) and (a)(2). (*Indiana Horse Racing Commission; 71 IAC 7.5-5-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2870, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3408; 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 Jul 23, 2007, 9:16 a.m.: 20070808IR-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.: 20070829IR-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 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 Jul 5, 2012, 2:14 p.m.: 20120718-IR071120402ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA; emergency rule filed Dec 5, 2019, 1:56 p.m.: 20191211-IR-071190646ERA; emergency rule filed Jun 1, 2020, 1:57 p.m.: 20200610-IR-071200295ERA; emergency rule filed Mar 3, 2022, 3:55 p.m.; emergency rule filed _____)*)

SECTION 2. 71 IAC 7.5-6-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-6-5 Post to finish

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) The following shall apply to starting the race:

- (1) The starter is responsible for assuring that each participant receives a fair start.
- (2) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the stewards may declare the horse a nonstarter.
- (3) Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse shall be declared a nonstarter by the stewards.
- (4) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may

declare individual horses to be nonstarters, exclude individual horses from one (1) or more pari-mutuel pools, or declare a no contest and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(b) The following shall apply to interference, jostling, or striking during the race:

(1) A jockey shall not ride carelessly or willfully so as to permit the jockey's mount to interfere with, impede, or intimidate any other horse in the race.

(2) No jockey shall carelessly or willfully jostle, strike, or touch another jockey or another jockey's horse or equipment.

(3) No jockey shall unnecessarily cause the jockey's horse to shorten its stride so as to give the appearance of having suffered a foul.

(c) The following shall apply to maintaining a straight course during the race:

(1) When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede, or intimidate any other horse, it may be a foul.

(2) The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding.

(3) If the stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible.

(4) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts, or swerves out of its lane in such a manner that it interferes with, impedes, or intimidates another horse, and it may result in the disqualification of the offending horse.

(d) The following shall apply to disqualifications during the race:

(1) When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(2) If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(3) When a horse is disqualified for interference in a time trial race, for the purposes of qualifying only, it shall receive the time of the horse it is placed behind plus one one-hundredth (1/100) of one (1) second penalty, or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(4) Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer, or other person authorized to handle or attend to a horse shall be prima facie evidence of a violation of these rules and is sufficient grounds for the stewards to scratch or disqualify the horse.

(5) The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and time trial qualification.

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

(f) The following shall apply to use of riding crops during the race:

- (1) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his/her best efforts to win.
- (2) In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.
- (3) No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone or applied by anyone to a horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.
- (4) Riding crops shall not be used on two-year-old horses before April 1 of each year.
- (5) The riding crop shall only be used for safety, correction, and encouragement and be appropriate, proportionate, and professional, taking into account the rules of racing herein. However, stimulus provided by the use of the riding crop shall be monitored so as not to compromise the welfare of the horse.
- (6) Use of the riding crop varies with each particular horse and the circumstances of the race.
- (7) Except for extreme safety reasons, all riders should comply with the following when using the riding crop:
 - (A) initially showing the horse the riding crop or tapping the horse with the riding crop down, giving it time to respond before hitting it;
 - (B) having used the riding crop, giving the horse a chance to respond before using it again; and
 - (C) using the riding crop in rhythm with the horse's stride.
- (8) Allowing the horse a chance to respond can be:
 - (A) pausing the use of the riding crop on the horse before resuming again; or
 - (B) pushing on the horse with a rein in each hand; or
 - (C) showing the horse the riding crop without making contact; or
 - (D) moving the riding crop from one hand to the other.
- (9) At the beginning of each race meet, the stewards shall establish a maximum number of successive strikes before the rider must give the horse a minimum number of successive strides.
- (10) Prohibited use of the riding crop includes, but is not limited to, striking a horse:
 - (A) on the head, flanks, or any other part of its body other than the shoulders or hind quarters, except when necessary to control a horse;
 - (B) during the post parade or after the finish of the race, except when necessary to control the horse;
 - (C) excessively;
 - (D) when the horse is clearly out of the race or has obtained its maximum placing;
 - (E) persistently even though the horse is showing no response under the riding crop;
 - (F) causing whip marks, welts, or breaks in the skin; or
 - (G) striking another person or horse.
- (g) After the race, horses will be subject to inspection by an official veterinarian looking for cuts, welts, or bruises in the skin. Any adverse findings shall be reported to the stewards.

(h) The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

(i) If a horse leaves the racecourse during a race, it shall be disqualified.

(j) The following shall apply to the order of finish:

(1) The official order of finish shall be decided by the stewards with the aid of the photo finish camera and, in the absence of the photo finish film strip, the video replay. The photo finish and video player are only aids in the stewards' decision. The decision of the stewards shall be final in all cases.

(2) The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

(k) The following shall apply to returning after the finish:

(1) After a race has been run, the jockey shall ride promptly to the place designated by the stewards, dismount, and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(2) If a jockey is prevented from riding to the designated unsaddling area because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

(l) The following shall apply to unsaddling:

(1) Only persons authorized by the stewards may assist the jockey with unsaddling the horse after the race.

(2) No one shall place a covering over a horse before it is unsaddled.

(m) Weighing in:

(1) A jockey shall weigh in at no less than the same weight at which he/she weighed out and if under that weight, and after consideration of mitigating circumstances by the board of stewards, his/her mount may be disqualified from any portion of the purse money.

(2) In the event of a disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

(3) A jockey's weight shall include clothing, boots, saddle, and its attachments and any other equipment except the bridle, bit, blinkers, number cloth, and over-girth, reins, and breast collar.

(4) Upon approval of the stewards, the jockeys may be allowed up to three (3) pounds more than published weights to account for inclement weather clothing and equipment.

(5) The post-race weight of jockeys includes any sweat, dirt, and mud that have accumulated on the jockey, jockey's clothing, jockey's safety equipment, and over-girth. This accounts for additional weight, depending on specific equipment, as well as weather, track, and racing conditions.

(n) The following shall apply to dead heats:

(1) When two (2) horses run a dead heat for first place, all purses or prizes to which the first and second horses would have been entitled shall be divided equally between them. This subdivision applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

(2) In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

(3) When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses which ran a dead heat shall be deemed to have run a dead heat for first place.

(4) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the stewards.

(o) The following shall apply to 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 first 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.

(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.~~

~~(5)~~(4) 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, in which case the order of finish shall also determine the preference in qualifying for the finals. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying positions, then a draw by public lot shall be conducted as directed by the stewards.

~~(6)~~(5) Except in the case of a disqualification, 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)~~(6) 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 one-hundredth (1/100) of one (1) 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, offtrack, or other conditions.

~~(8)~~(7) Should a malfunction occur with electronic times on any time trials, finalists from that time will then be determined by official hand timing 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.

(Indiana Horse Racing Commission; 71 IAC 7.5-6-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2872, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3409; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2781; 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 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 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA; emergency rule filed Mar 2, 2021, 3:10 p.m.; emergency rule filed

SECTION 3. 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;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. 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 rule by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b) provided that the owner of such an Indiana bred or sired horse provides 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).

(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 or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner 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 or owner 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 or owner 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 or owner 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 may arrive at a reasonable time for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses 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 or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, 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 or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or summary suspension. It is a defense to any action brought against an owner or trainer, or both, 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 or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, methods, 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, or cells, or all, 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) Androgenic-anabolic steroids (AAS) 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).

(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) Any substance or method not otherwise referenced in this rule, which is present ~~on~~ **in** Version ~~8-5-11.1~~ of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the Commission office.**

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

(9) The use of a prohibited method, as defined in Version ~~8-5~~ **11.1** of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the Commission office,** on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(g) The trainer or owner or his or 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, or otherwise penalize any trainer 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 or 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 or urine samples under this rule shall be collected as provided by 71 IAC 8-4-1 and shall be analyzed as follows:

(1) Approved primary laboratory for screening.

(2) Approved primary laboratory for confirmation.

(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) The collection of hair samples under this rule shall be collected as provided by 71 IAC 8-4-1 and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

(1) If the horse is sampled while not on the grounds of a licensed facility or racetrack, then the licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.

(2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.

(3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.

(4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post race testing.

(k) 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). 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 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; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA; emergency rule filed Mar 15, 2019, 2:42 p.m.: 20190320-IR-071190167ERA; errata filed Mar 29, 2019, 10:12 a.m.: 20190403-IR-071190167ACA; emergency rule filed Dec 5, 2019, 1:56 p.m.: 20191211-IR-071190646ERA; emergency rule filed Jun 1, 2020, 1:57 p.m.: 20200610-IR-071200295ERA; **emergency rule filed _____**)

SECTION 4. 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;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. 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 rule by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b) provided that the owner of such an Indiana bred or sired horse provides 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).

(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 or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner 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 or owner 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 or owner 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 or owner 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 may arrive at a reasonable time for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses 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 or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, 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 or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or summary suspension. It is a defense to any action brought against an owner or trainer, or both, 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 or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, methods, 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, or cells, or all, 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) Androgenic-anabolic steroids (AAS) 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).
- (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) Clenbuterol in excess of the threshold provided in 71 IAC 8.5-1-4.2(5) for a quarter horse. In the event a sample from a quarter horse results in clenbuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in 71 IAC 8.5-8-1.5.
- (8) Albuterol in excess of the threshold provided in 71 IAC 8.5-1-4.2(2) for a quarter horse. In the event a sample from a quarter horse results in albuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in 71 IAC 8.5-8-1.5.
- (9) Any substance or method not otherwise referenced in this rule, which is present ~~on~~**in** Version ~~8.5-11.1~~**11.1** of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the Commission office.**
- (10) The presence of any substance at any time listed in subdivision (1), (2), (3), (4), (5), or (9) in an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.
- (11) The use of a prohibited method, as defined in Version ~~8.5-11.1~~**11.1** of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the Commission office,** on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.
- (g) The trainer or owner or his or 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, or otherwise penalize any trainer 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 or 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 or urine samples under this rule shall be collected as provided by 71 IAC 8.5-3-1 and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.
- (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) The collection of hair samples under this rule shall be collected as provided by 71 IAC 8.5-3-1 and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

- (1) If the horse is sampled while not on the grounds of a licensed training facility or racetrack, then the licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.
- (2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.
- (3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.
- (4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post race testing.

(k) 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). 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 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-IR071120525ERA; 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; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA; emergency rule filed Mar 15, 2019, 2:42 p.m.: 20190320-IR-071190167ERA; errata filed Mar 29, 2019, 10:12 a.m.: 20190403-IR-071190167ACA; emergency rule filed Dec 5, 2019, 1:56 p.m.: 20191211-IR-071190646ERA; emergency rule filed Jun 1, 2020, 1:57 p.m.; **emergency rule filed _____**)*

DRAFT

Agenda Item #4



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
IG-2022-2589	3/18/22	JAIME C. ARIAS	TB	3/16/22	License Violation	\$0	7/11/22	10/8/22	90
IG-2022-2700	6/23/22	THOMAS L. POMPELL	TB	6/8/22	Riding/Driving Infraction Violation	\$500			
HP-2022-2701	6/21/22	ANDY R. SHETLER		6/17/22	Riding/Driving Infraction Violation	\$300			
HP-2022-2702	6/21/22	BRANDON K. HAWKINS		6/17/22	Contraband/Drug Violation (Human)	\$200	6/18/22	7/17/22	30
HP-2022-2703	6/21/22	BRANDON L. BATES		6/17/22	Riding/Driving Infraction Violation	\$200			
HP-2022-2704	6/23/22	ATLEE E. BENDER		6/22/22	Riding/Driving Infraction Violation	\$200			
HP-2022-2705	6/23/22	DONALD J. EASH		6/22/22	Whip Violation	\$200			
IG-2022-2706	6/24/22	CYNTHIA LOOMIS		6/11/22	Conduct/Behavior	\$1,000			
IG-2022-2707	6/27/22	VINCENT CHEMINAUD	TB	6/23/22	Riding/Driving Infraction Violation	\$0	7/4/22	7/6/22	3
IG-2022-2708	6/22/22	FRANCISCO J. QUINTERO	QH	6/22/22	Riding/Driving Infraction Violation	\$0	7/4/22	7/6/22	3
IG-2022-2709	6/28/22	EDGAR DIAZ	QH	6/27/22	Whip Violation	\$250			
IG-2022-2710	6/29/22	JAMES R. ANDERSON		6/13/22	Conduct/Behavior	\$0	6/13/22	12/31/22	202
IG-2022-2711	6/29/22	FRANCISCO R. RAMIREZ JR	QH	6/28/22	Whip Violation	\$250			
HP-2022-2712	6/29/22	ANDY R. SHETLER		6/24/22	Riding/Driving Infraction Violation	\$400			
HP-2022-2713	6/30/22	DENNIS J. WHITTEMORE JR		6/21/22	Miscellaneous Ruling	\$100			
HP-2022-2714	7/2/22	MELVIN SCHMUCKER		6/12/22	Failure to Cooperate	\$1,500			
IG-2022-2715	7/4/22	CYNTHIA LOOMIS	TB	7/4/22	License Violation / Summarily Suspended	\$0	7/4/22	10/3/22	92



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
IG-2022-2716	7/4/22	MARVIN A. JOHNSON		7/4/22	License Violation / Summarily Suspended	\$0	7/4/22	10/3/22	92
IG-2022-2717	6/30/22	RODNEY A. PRESCOTT		6/23/22	Conduct/Behavior	\$500			
HP-2022-2718	7/4/22	BRANDON L. BATES		7/2/22	Riding/Driving Infraction Violation	\$0	7/4/22	7/7/22	4
IG-2022-2719	7/5/22	JOSHUA L. MCLEMORE	TB	7/5/22	Miscellaneous Ruling (license rescinded)	\$0			
IG-2022-2720	7/4/22	CESAR G. GARCIA-ESQUEDA	QH	7/2/22	Whip Violation	\$500			
IG-2022-2721	7/4/22	CESAR G. GARCIA-ESQUEDA	QH	7/2/22	Whip Violation	\$0	7/11/22	7/13/22	3
IG-2022-2722	7/1/22	FRANCISCO J. QUINTERO	QH	6/30/22	Whip Violation	\$0	7/7/22	7/11/22	3*
IG-2022-2723	7/4/22	FRANCISCO J. QUINTERO	QH	7/2/22	Whip Violation	\$0	7/12/22	7/19/22	6*
IG-2022-2724	7/4/22	LUZ D. MARTINEZ	QH	7/2/22	Whip Violation	\$0			0*
IG-2022-2725	7/4/22	LUZ D. MARTINEZ	QH	7/2/22	Whip Violation	\$0	7/14/22	8/2/22	6*
IG-2022-2726	7/4/22	ERIK N. ESQUEDA	QH	7/2/22	Whip Violation	\$0	7/11/22	8/2/22	9*
IG-2022-2727	7/5/22	REYNALDO BRAMASCO		7/5/22	Miscellaneous Ruling (license rescinded)	\$0			
HP-2022-2728	7/6/22	MATTHEW W. KRUEGER		7/2/22	Riding/Driving Infraction Violation	\$300			
HP-2022-2729	7/6/22	JONATHAN G. CROWE		6/22/22	Contraband/Drug Violation	\$100			
HP-2022-2730	7/6/22	MARTIN T. MCKOY		6/22/22	Contraband/Drug Violation	\$100			
IG-2022-2731	7/8/22	JAVIER PADRON-BARCENAS	TB	7/7/22	Riding/Driving Infraction Violation	\$0	7/14/22	7/18/22	2*
HP-2022-2732	7/9/22	DENNIS J. WHITTEMORE JR		7/7/22	Whip Violation	\$200			
HP-2022-2733	7/9/22	JOEL E. SMITH		6/18/22	Medication/Drug Violation (Equine)	\$500			



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
IG-2022-2734	7/11/22	FELIX BARRAZA	QH	6/4/22	Medication/Drug Violation (Equine)	\$0			
IG-2022-2735	7/12/22	EDGAR DIAZ	QH	7/11/22	Whip Violation	\$500			
IG-2022-2736	7/13/22	CRISTIAN REYES-SOTELO	QH	7/12/22	Whip Violation	\$500			
IG-2022-2737	7/14/22	RENE DIAZ	TB	7/12/22	Riding/Driving Infraction Violation	\$0	7/20/22	8/4/22	5*
IG-2022-2738	7/18/22	TIMOTHY R. EGGLESTON	QH	7/2/22	Medication/Drug Violation (Equine)	\$500			
HP-2022-2739	7/20/22	LEWAYNE MILLER		6/17/22	Trainer Responsibility	\$2,500	7/19/22	8/17/22	30
IG-2022-2740	7/20/22	DEXTAVIOUS I. MITCHELL	QH	7/19/22	Whip Violation	\$500			
HP-2022-2741	7/21/22	JARED D. FINN		7/8/22	Jockey/Driver Requirements	\$50			
HP-2022-2742	7/21/22	JARED D. FINN		7/7/22	Jockey/Driver Requirements	\$50			
HP-2022-2743	7/21/22	PETER M. WRENN		7/8/22	Jockey/Driver Requirements	\$50			
HP-2022-2744	7/21/22	PETER M. WRENN		7/9/22	Riding/Driving Infraction Violation	\$100			
HP-2022-2745	7/21/22	ATLEE E. BENDER		7/13/22	Riding/Driving Infraction Violation	\$300			
HP-2022-2746	7/21/22	SAMUEL D. WIDGER		7/19/22	Riding/Driving Infraction Violation	\$100			
IG-2022-2747	7/21/22	CYNTHIA LOOMIS		7/4/22	Miscellaneous Ruling	\$0	7/4/22	10/3/22	92
IG-2022-2748	7/18/22	LUCINA GONZALEZ		7/18/22	Miscellaneous Ruling	\$0			
IG-2022-2749	7/22/22	RONALD T. WILLIAMS		7/12/22	Medication/Drug/Alcohol Violation (Human)	\$0	7/12/22	8/10/22	30
IG-2022-2750	7/22/22	JAMES WILLIAMS		7/12/22	Medication/Drug/Alcohol Violation (Human)	\$0	7/12/22	8/10/22	30
HP-2022-2751	7/23/22	RANDY G. HATTON		4/28/22	Miscellaneous Ruling	\$1,000	8/1/22	9/14/22	45



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
IG-2022-2752	7/23/22	CRISTIAN AGUIRRE-ERIVES	QH	7/23/22	Whip Violation	\$250			
IG-2022-2753	7/23/22	EDGAR DIAZ	QH	7/23/22	Whip Violation	\$0	8/2/22	8/4/22	3
IG-2022-2754	7/23/22	GERMAN RODRIGUEZ JR	QH	7/23/22	Whip Violation	\$250			
HP-2022-2755	7/26/22	PETER M. WRENN		7/21/22	Jockey/Driver Requirements	\$200			
HP-2022-2756	7/27/22	PASKO VUCINAJ		6/30/22	Medication/Drug Violation (Equine)	\$1,000			
HP-2022-2757	7/28/22	JON L. ANDERSON		6/30/22	Medication/Drug Violation (Equine)	\$1,000			
HP-2022-2758	7/29/22	RICHARD C. PLANO		7/28/22	Riding/Driving Infraction Violation	\$200			
HP-2022-2759	7/29/22	SAMUEL D. WIDGER		7/28/22	Riding/Driving Infraction Violation	\$200			
IG-2022-2760	8/2/22	BRYAN A. METZ		8/2/22	Miscellaneous Ruling	\$0			
IG-2022-2761	8/2/22	HAROLD COLLINS		8/1/22	Miscellaneous Ruling	\$0			
IG-2022-2762	8/2/22	ELIAS LOPEZ	TB	7/7/22	Medication/Drug Violation (Equine)	\$1,000			
IG-2022-2763	8/3/22	ANDREA RODRIGUEZ	TB	7/21/22	Riding/Driving Infraction Violation	\$0	8/9/22	8/11/22	3
HP-2022-2764	8/3/22	JARED D. FINN		7/28/22	Riding/Driving Infraction Violation	\$200			
HP-2022-2765	8/5/22	ANDY R. SHETLER		6/13/22	Miscellaneous Ruling	\$0	8/5/22	11/3/22	91
IG-2022-2766	8/4/22	GAGE M. HOLMES	TB	8/2/22	Riding/Driving Infraction Violation	\$0	8/10/22	8/15/22	3*
IG-2022-2767	8/4/22	ISIDRO I. BANUELOS	QH	8/3/22	Whip Violation	\$250			
IG-2022-2768	8/8/22	SERAFIN ESPINOZA		8/6/22	Medication/Drug/Alcohol Violation (Human)	\$100			
IG-2022-2769	8/8/22	SAUL P. PEREZ-DEARAIZA		8/4/22	Conduct/Behavior	\$250			



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
IG-2022-2770	8/11/22	FRANCISCO J. QUINTERO	QH	8/10/22	Whip Violation	\$0	8/17/22	8/31/22	9*
IG-2022-2771	8/11/22	FERNANDO MORIN	QH	8/10/22	Whip Violation	\$250			
IG-2022-2772	8/15/22	CESAR G. GARCIA-ESQUEDA	QH	8/13/22	Whip Violation	\$0	8/31/22	9/14/22	9*
IG-2022-2773	8/13/22	CESAR G. GARCIA-ESQUEDA	QH	8/13/22	Whip Violation	\$0	8/22/22	8/30/22	6*
IG-2022-2774	8/13/22	ERIK N. ESQUEDA	QH	8/13/22	Whip Violation	\$0	8/22/22	9/9/22	12*
HP-2022-2775	8/16/22	BRADLEY K. FERGUSON		8/10/22	Riding/Driving Infraction Violation	\$200			
IG-2022-2776	8/17/22	JAMES P. HUFFMAN	TB	8/16/22	Miscellaneous Ruling	\$500			
IG-2022-2777	8/16/22	ANDRES P. ULLOA	TB	8/11/22	Riding/Driving Infraction Violation	\$0	8/23/22	8/25/22	3
IG-2022-2778	8/15/22	EDGAR DIAZ	QH	8/13/22	Riding/Driving Infraction Violation	\$0	8/22/22	8/24/22	3
IG-2022-2779	8/17/22	RANDALL D. HAFFNER		7/24/22	License Violation	\$0			
IG-2022-2780	8/18/22	BENTLEY F. COMBS	TB	8/16/22	Miscellaneous Ruling	\$500			
IG-2022-2781	8/18/22	FERNANDO C. DE LA CRUZ	TB	8/17/22	Riding/Driving Infraction Violation	\$500			
IG-2022-2782	8/18/22	EDGAR DIAZ	QH	8/16/22	Riding/Driving Infraction Violation	\$0	8/25/22	8/30/22	3*
IG-2022-2783	8/19/22	JOSE A. BELTRAN	QH	8/18/22	License Violation	\$0			
HP-2022-2784	8/19/22	JOHN J. DELONG		8/17/22	Whip Violation	\$200			
IG-2022-2785	8/23/22	GERMARIUS A. O'NEAL	QH	8/22/22	Whip Violation	\$250			
HP-2022-2786	8/20/22	JORDAN M. ROSS		8/18/22	Riding/Driving Infraction Violation	\$100			
HP-2022-2787	8/23/22	RICHARD L. MACOMBER JR		8/19/22	Whip Violation	\$200			



INDIANA HORSE RACING COMMISSION

Ruling Log

Rulings Issued From 6/22/2022 to 9/20/2022

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
HP-2022-2788	8/23/22	TRACE A. TETRICK		8/19/22	Whip Violation	\$200			
IG-2022-2789	8/22/22	EDDIE CARRIZALEZ		8/22/22	Miscellaneous Ruling	\$0			
HP-2022-2790	8/24/22	ALVIN R. MILLER		7/15/22	Medication/Drug Violation (Equine)	\$0			
IG-2022-2791	8/25/22	GENARO GARCIA	TB	8/17/22	Trainer Responsibility	\$250			
HP-2022-2792	8/26/22	JOHN J. DELONG		8/24/22	Whip Violation	\$200			
HP-2022-2793	8/25/22	JAMIE S. MACOMBER		7/1/22	Trainer Responsibility	\$1,500	8/26/22	9/1/22	7
HP-2022-2794	8/26/22	JORDAN M. ROSS		8/25/22	Whip Violation	\$200			
HP-2022-2795	8/26/22	LESTER D. PRUITT		6/1/22	Conduct/Behavior	\$0	8/31/22	10/14/22	45
IG-2022-2796	8/30/22	GERMARIUS A. O'NEAL	QH	8/29/22	Whip Violation	\$500			
HP-2022-2797	8/30/22	SCOTT T. GEORGE		8/27/22	Miscellaneous Ruling (late driver change)	\$100			
HP-2022-2798	8/31/22	DONALD J. EASH		8/30/22	Whip Violation	\$200			
IG-2022-2799	9/1/22	ERIK N. ESQUEDA	QH	8/31/22	Whip Violation	\$500	9/14/22	10/4/22	12*
HP-2022-2800	9/5/22	JORDAN M. ROSS		9/3/22	Riding/Driving Infraction Violation	\$200			
IG-2022-2801	9/3/22	JOSE M. RUIZ	QH	9/3/22	Whip Violation	\$0	9/9/22	9/13/22	3*
IG-2022-2802	9/3/22	CESAR G. GARCIA-ESQUEDA	QH	9/3/22	Whip Violation	\$0	9/15/22	10/5/22	12*
IG-2022-2803	9/6/22	CESAR G. GARCIA-ESQUEDA	QH	9/3/22	Whip Violation	\$500	10/10/22	10/27/22	12*
IG-2022-2804	9/6/22	SHANLEY L. JACKSON	QH	9/3/22	Riding/Driving Infraction Violation	\$0			
HP-2022-2805	9/9/22	KEVIN J. LAMBRIGHT		9/7/22	Riding/Driving Infraction Violation	\$100			



INDIANA HORSE RACING COMMISSION

Ruling Log

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Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fine	Suspended From	Suspended To	Days Suspended
HP-2022-2806	9/9/22	BRANDON L. BATES		9/8/22	Riding/Driving Infraction Violation	\$200			
HP-2022-2807	9/9/22	ODELL D. CROSS		9/8/22	Riding/Driving Infraction Violation	\$200			
IG-2022-2808	9/12/22	EDGAR DIAZ	QH	9/9/22	Whip Violation	\$0	9/19/22	9/27/22	6*
IG-2022-2809	9/13/22	SAMUEL E. BERMUDEZ	TB	9/9/22	Riding/Driving Infraction Violation	\$0	9/19/22	9/19/22	1
HP-2022-2810	9/13/22	KEVIN J. LAMBRIGHT		9/9/22	Riding/Driving Infraction Violation	\$100			
HP-2022-2811	9/16/22	DENNIS J. WHITTEMORE JR		9/14/22	Riding/Driving Infraction Violation	\$200			
IG-2022-2812	9/16/22	DEXTAVIOUS I. MITCHELL	QH	9/15/22	Whip Violation	\$0	9/22/22	9/27/22	3*
IG-2022-2813	9/15/22	ANTONIO RODRIGUEZ	QH	9/14/22	Whip Violation	\$250			
IG-2022-2814	9/12/22	RITO ARELANO		9/12/22	Miscellaneous Ruling (license rescinded)	\$0			

Agenda Item #5



August 18, 2022

Ms. Deena Pitman
Executive Director
Indiana Horse Racing Commission
1302 N. Meridian St., Suite 175
Indianapolis, Indiana 46202

Re: Substitution Item for 2022 Equipment List

Dear Deena,

The 2022 Equipment List calls for the purchase of 14 gators at a total cost of \$151,001. We determined that we did not need this many gators and instead ordered 10 gators with upgrades on 7 of them. Total cost for the 10 gators with upgrades is \$147,125. That leaves us with an underspend of \$3,876.

We would propose, for your approval, substituting a John Deere Snow Blower at a purchase price of \$10,300. This piece of equipment will come in very handy during the winter training months. It will also result in Harrah's Hoosier Park spending \$6,424 more than originally required.

Also, you will find attached supporting documentation for the numbers referenced above.

We would appreciate any consideration you may give this request. I am also available at your convenience to answer any questions that you may have.

Respectfully,

Rick Moore

4500 Dan Patch Circle ■ Anderson, IN 46013
(800) 526-7223 ■ HarrahsHoosierPark.com





HARRAH'S HOOSIER PARK 2022 CAPITAL EXPENDITURES

Harrah's Hoosier Park is prepared to spend almost \$2 million in racing related Capital to ensure that racing at Harrah's Hoosier Park is conducted in a first-class manner that all industry stakeholders can be proud of.

Item Description	Estimate
John Deere Gators (8 at \$9,201)	\$73,608
John Deere Gators 4-seat (2 at \$16,296)	\$32,472
Telehandler	\$129,892
John Deere R15 Gator (2 at \$9,201)	\$18,402
John Deere R15 Gator with cart	\$10,283
John Deere Gator with Snow Blade	\$16,236
IHRC Mandatory Total	\$280,893
Track Conditioner	\$35,000
LED Lighting in all barns	\$153,800
Change out all of Track Lightning to LED	\$1,130,000
Gas heaters for both paddock barns	\$80,000
Upgrade Backstretch Sound System	\$115,000
New Big Screen TV's in both Paddock Barns	\$5,000
Replace all Barn Gutters	\$110,000
Total	\$1,628,800
Grand Total	\$1,909,693



Purchase Order for
John Deere Equipment (U.S. Only)

PO# 08641165
PO Revision# Original

PURCHASER'S NAME - First Signer (First, Middle Initial, Last) HOOSIER PARK LLC			DATE OF ORDER Mar 04, 2022	COMPANY UNIT 03	DEALER ACCOUNT NO. 033224
(SECOND LINE OF OWNER NAME)			DEALER ORDER NO. FDD 12JUL22, FDD 12JUL22, FDD 12JUL22, FDD 15AUG22, FDD 16AUG22, UN SOURCED, UN SOURCED, UN SOURCED, UN SOURCED, UN SOURCED		
STREET OR RR 4500 DAN PATCH CIR			SOC.SEC.	IRS NO.	EIN.NO.
TOWN ANDERSON	STATE IN	ZIP CODE 46013	TRANSACTION TYPE Cash Sale		PURCHASER SALES TAX EXEMPT
COUNTY Madison	PURCHASER ACCT.		PHONE NO. 765-609-4651		
REWARDS # 980763759			SELLER'S NAME & ADDRESS Reynolds Farm Equipment 12501 Reynolds Drive Fishers, IN 46038 317-849-0810		
E-MAIL ADDRESS APHD@CAESARS.COM			PURCHASER'S NAME - Second Signer		
STREET OR RR			I (We), the undersigned, hereby order from Dealer the Equipment described below, to be delivered as shown below. This order is subject to Dealer's ability to obtain such Equipment from the manufacturer and Dealer shall be under no liability if delivery of the Equipment is delayed or prevented due to labor disturbances, transportation difficulties, or for any reason beyond Dealer's control. The price shown below is subject to Dealer's receipt of the Equipment prior to any change in price by the manufacturer. It is also subject to any new or increased taxes imposed upon the sale of the Equipment after the date of this order.		
TOWN	STATE	ZIP CODE	REWARDS #		
Use County MADISON			Use State/Province IN		

QTY	NEW	DEM	RENTAL	DMWC	Equipment & Value Added Service (Give Model, Size & Description)	Hours of Use	PRODUCT IDENTIFICATION NUMBER	DELIVERED CASH PRICE (Or Total Lease Payments)
1	x				JOHN DEERE GATOR™ TS (Model Year 2022) Stock # C142060			\$ 7,456 65
1					AP-JG21G CANOPY			\$ 595 51
1					AP-JG411A WINDSHIELD			\$ 197 84
1	x				JOHN DEERE GATOR™ TS (Model Year 2022) Stock # C142061			\$ 7,456 65
1					AP-JG21G CANOPY			\$ 595 51
1					AP-JG411A WINDSHIELD			\$ 197 84
1	x				JOHN DEERE GATOR™ TS (Model Year 2022) Stock # C142062			\$ 7,456 65
1					AP-JG21G CANOPY			\$ 595 51
1					AP-JG411A WINDSHIELD			\$ 197 84
1	x				JOHN DEERE GATOR™ TX (Model Year 2022) Stock # C142063			\$ 8,762 17
1	x				BM22775 Side Tool Rack			\$ 323 00
1					AP-JG21G CANOPY			\$ 536 57
1					AP-JG411A WINDSHIELD			\$ 178 26
1	x				JOHN DEERE GATOR™ TX (Model Year 2022) Stock # C142064			\$ 8,762 17
1	x				BM22775 Side Tool Rack			\$ 323 00
1					AP-JG21G CANOPY			\$ 536 57
1					AP-JG411A WINDSHEILD			\$ 178 26
1	x				JOHN DEERE GATOR™ TS (Model Year 2022) Stock # C142065			\$ 8,855 84
1	x				BM22600 Deluxe Glass Cab			\$ 3,776 76
1	x				BM22138 Electrical Kit - Deluxe Glass Cab			\$ 211 47
1	x				BM23578 Forced-Air Heater Kit			\$ 2,172 94
1	x				BM21653 Remote Cargo Box Release Kit			\$ 116 79
1	x				BM20414 Heavy-Duty Suspension Kit			\$ 166 20
1	x				JOHN DEERE GATOR™ TS (Model Year 2022) Stock # C144515			\$ 7,456 65
1					AP-JG21G CANOPY			\$ 595 94
1					AP-JG411A WINDSHIELD			\$ 197 98
1					AP-JG16EB VINYL ENCLORSURE			\$ 599 43
1	x				JOHN DEERE GATOR™ XUV825M S4 (Model Year 2022) Stock # C142066			\$ 16,215 45
1	x				BM25922 OPS Abrasion Resistant Full Windshield			\$ 684 55
1	x				JOHN DEERE GATOR™ XUV835M Cab Non-HVAC (Model Year 2022) Stock # C142067			\$ 21,756 25
1	x				BM26642 Heater			\$ 1,008 98
1					BM26215 Light Kit - LIGHT KIT, LED DRIVING LIGHTS (2)			\$ 384 77
1	x				JOHN DEERE GATOR™ XUV835M (Model Year 2022) Stock # C142068			\$ 17,700 00
1	x				BUC10928 Door Kit, Soft			\$ 796 66
1	x				BM26215 LED Driving Lights (2 Lights)			\$ 303 34
1	x				WESTERN 6' IMPACT HD STRAIGHT BLADE SNOWPLOW Stock # C138786	0	21112320841384930	\$ 4,500 00
1					BM26268 Harness Kit - HARNESS KIT, DASH ATTACHMENT PORT	0		\$ 150 00
1	x				Utility Cart, 17P Poly			\$ 500 00
1	x				Salt Spreader 835/865 LP69909			\$ 3,250 00



Purchase Order for
John Deere Equipment (U.S. Only)

PO# 08641165
PO Revision# Original

Quote ID: 25983821

Purchaser Name: HOOSIER PARK LLC

QTY	NEW	DEMO	RENTAL	USED	Equipment & Value Added Service (Give Model, Size & Description)	Hours of Use	PRODUCT IDENTIFICATION NUMBER	DELIVERED CASH PRICE (Or Total Lease Payments)
2					LP69908 Non-Taxable Trademark Item - GATOR HITCH AND DISPLAY - 835/865			\$ 1,750 00
I (We) offer to sell, transfer, and convey the following item(s) at or prior to the time of delivery of the above Equipment, as a "trade-in" to be applied against the cash price. Such item(s) shall be free and clear of all security agreements, liens, and encumbrances at the time of transfer to you. The following is a description and the price to be allowed for each item.						TOTAL CASH PRICE		\$ 137,500 00
QTY	DESCRIPTION OF TRADE-IN				Hours of Use	PRODUCT IDENTIFICATION NUMBER	AMOUNT	
PURCHASER TYPE 1 Commercial						MARKET USE 17 General Utility		
COMMENTS:						TOTAL TRADE-IN ALLOWANCE		\$ 0 00
						1. TOTAL CASH-PRICE		\$ 137,500 00
						2. TOTAL TRADE-IN ALLOWANCE		\$ 0 00
						3. TOTAL TRADE-IN PAY-OFF		\$ 0 00
						4. BALANCE		\$ 137,500 00
						5. SALES TAX - (7.00%)		\$ 9,625 00
						9. SUB-TOTAL		\$ 147,125 00
						10. CASH WITH ORDER		\$ 0 00
						11. RENTAL APPLIED		\$ 0 00
						12. CASH DISCOUNT		\$ 0 00
						13. BALANCE DUE		\$ 147,125 00

IMPORTANT WARRANTY NOTICE: The John Deere warranty applicable to new John Deere Equipment is printed and included with this document. There is no warranty on used equipment. The new equipment warranty is part of this contract. Please read it carefully. **YOUR RIGHTS AND REMEDIES PERTAINING TO THIS PURCHASE ARE LIMITED AS SET FORTH IN THE WARRANTY AND THIS CONTRACT. IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS ARE NOT MADE AND ARE EXCLUDED UNLESS SPECIFICALLY PROVIDED IN THE JOHN DEERE WARRANTY.**

Telematics: Orders of telematic devices include only the hardware. Where available, telematics software, including JDLink™ connectivity service, may be enabled from your local John Deere Operations Center or JDLink website. Please see your authorized John Deere dealer for assistance.

DISCLOSURE OF REGULATION APPLICABILITY: When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board. In-Use Off-Road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants.

ACKNOWLEDGEMENTS- I (We) promise to pay the Balance Due (line13) shown above in cash, or to execute a Time Sale Agreement (Retail Installment Contract), or a Loan Agreement, for the purchase price of the Equipment, plus additional charges shown thereon or execute a Lease Agreement, on or before delivery of the Equipment ordered herein. Despite physical delivery of the Equipment, title shall remain in the seller until one of the foregoing is accomplished.

USE OF INFORMATION/PRIVACY NOTICE I understand that Deere & Company and its affiliates ("John Deere") and Dealer collect information, including my personal information and machine data to provide warranty, customer service, product and customer support, marketing and promotional information about Dealer, John Deere and their equipment, products and services and to support other business processes and purposes. See the John Deere Privacy Statement (<https://www.deere.com/en/privacy-and-data/privacy-statements/>) for additional information on the types of personal information and machine data John Deere collects, how it is collected, used and disclosed. See Dealer directly for information about its privacy policy.

Purchaser's Signature _____ Accepted By _____
 Purchaser's Signature _____ Date Accepted _____ Salesperson GARBER, CLINTON

Delivery Acknowledgement			
Delivered On:	<input type="text"/>	Signature	Date
Warranty Begins:	<input type="text"/>		



JOHN DEERE

Selling Equipment



Quote Id: 26643652

Customer: HOOSIER PARK LLC

JOHN DEERE SB84B Snow Blower

Hours:				Suggested List
Stock Number:				\$ 11,668.00
				Selling Price
				\$ 10,300.00
Code	Description	Qty	Unit	Extended
7091T	SB84B Snow Blower	1	\$ 10,480.00	\$ 10,480.00
Standard Options - Per Unit				
1001	Control Box and Harness	1	\$ 620.00	\$ 620.00
Standard Options Total				\$ 620.00
Other Charges				
	Freight	1	\$ 268.00	\$ 268.00
	Setup	1	\$ 300.00	\$ 300.00
Other Charges Total				\$ 568.00
Suggested Price				\$ 11,668.00
Customer Discounts				
Customer Discounts Total			\$ -1,368.00	\$ -1,368.00
Total Selling Price				\$ 10,300.00

BRADCO LAND SCUPTOR ASSEMBY INCLUDES SCARIFIER KIT, CIMB KIT AND CUTTING EDGE KIT

Hours:				Suggested List
0				\$ 4,474.82
Stock Number:				Selling Price
				\$ 4,200.00
Code	Description	Qty	Unit	Extended
124730	BRADCO LAND SCUPTOR ASSEMBY INCLUDES SCARIFIER KIT, CIMB KIT AND CUTTING EDGE KIT	1	\$ 4,235.00	\$ 4,235.00
Other Charges				
	Freight	1	\$ 239.82	\$ 239.82
Other Charges Total				\$ 239.82
Suggested Price				\$ 4,474.82
Customer Discounts				
Customer Discounts Total			\$ -274.82	\$ -274.82
Total Selling Price				\$ 4,200.00

From: [Rick Moore](#)
To: [Pitman, Deena](#)
Subject: Re: [EXTERNAL] RE: Substitution Letter Attached
Date: Friday, September 2, 2022 4:00:41 PM
Attachments: [doc07127420220818124238.pdf](#)

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Thank you Deena! Very much appreciated! Rick

Sent from my iPhone



Rick Moore | VP & General Manager of Racing
O 765-609-4831
4500 Dan Patch Circle | Anderson, Indiana 46013

On Sep 2, 2022, at 2:58 PM, Pitman, Deena <dpitman@hrc.in.gov> wrote:

****CAUTION** - EXTERNAL EMAIL**
DO NOT open attachments or click on links from unknown senders or unexpected emails
The Original Sender of this email is **dpitman@hrc.IN.gov**.

Rick, I am in receipt of your August 18, 2022 letter where you request to decrease (by 4) the number of gators to be replaced. You further propose to use the dollars saved (along with adding additional money) toward the purchase of a John Deere Snow Blower to aid in property upkeep during winter training. Please consider this email response as Indiana Horse Racing Commission approval of your equipment list substitution request. Additionally, I will place this request on the agenda for commission ratification at the next scheduled meeting.

Sincerely,

Deena Pitman
Executive Director
dpitman@hrc.in.gov
317-233-3119

From: Rick Moore <RMoore9@caesars.com>
Sent: Friday, September 2, 2022 12:24 PM
To: Pitman, Deena <dpitman@hrc.IN.gov>
Cc: joejoeputnam@aol.com
Subject: RE: Substitution Letter Attached

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click

links from unknown senders or unexpected email. ****

Hi Deena!

Truly no apologies necessary. You are an extremely busy lady.

I spoke to Joe Putnam just a few minutes ago about the substitution request. Joe is fully in favor of the request as the snow blower will be very beneficial to the horsemen particularly during the wintertime training months.

As you can see I have included Joe on this email.

I hope you have a most enjoyable Labor Day Weekend!

Rick



Rick Moore | VP & General Manager of Racing
O 765-609-4831
4500 Dan Patch Circle | Anderson, Indiana 46013

From: Pitman, Deena <dpitman@hrc.IN.gov>
Sent: Friday, September 2, 2022 10:33 AM
To: Rick Moore <RMoore9@caesars.com>
Subject: [EXTERNAL] RE: Substitution Letter Attached

****CAUTION** - EXTERNAL EMAIL**
DO NOT open attachments or click on links from unknown senders or unexpected emails
The Original Sender of this email is dpitman@hrc.IN.gov.

My sincerest apologies Rick. This fell off my radar.

Can you please let me know if you've had any conversations with ISA regarding this? While that isn't necessarily a deciding factor and I can't see that it would cause any angst, I'd at least like to know you've broached the subject matter with them and let me know of any comments they may have on the topic. Once I hear back from you, I'll proceed on my end. Again, I'm so sorry about the delay.

~Deena

From: Rick Moore <RMoore9@caesars.com>
Sent: Thursday, September 1, 2022 7:43 PM
To: Pitman, Deena <dpitman@hrc.IN.gov>
Subject: FW: Substitution Letter Attached

****** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ******

Hello Deena,

I just wanted to follow-up with a very brief email to see what the status might be of my substitution

From: [Rick Moore](#)
To: [Pitman, Deena](#)
Cc: joejoeputnam@aol.com
Subject: RE: Substitution Letter Attached
Date: Friday, September 2, 2022 12:24:45 PM

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Deena!

Truly no apologies necessary. You are an extremely busy lady.

I spoke to Joe Putnam just a few minutes ago about the substitution request. Joe is fully in favor of the request as the snow blower will be very beneficial to the horsemen particularly during the wintertime training months.

As you can see I have included Joe on this email.

I hope you have a most enjoyable Labor Day Weekend!

Rick



Rick Moore | VP & General Manager of Racing
O 765-609-4831
4500 Dan Patch Circle | Anderson, Indiana 46013

From: Pitman, Deena <dpitman@hrc.IN.gov>
Sent: Friday, September 2, 2022 10:33 AM
To: Rick Moore <RMoore9@caesars.com>
Subject: [EXTERNAL] RE: Substitution Letter Attached

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Can you please let me know if you've had any conversations with ISA regarding this? While that isn't necessarily a deciding factor and I can't see that it would cause any angst, I'd at least like to know you've broached the subject matter with them and let me know of any comments they may have on the topic. Once I hear back from you, I'll proceed on my end. Again, I'm so sorry about the delay. ~Deena

From: Rick Moore <RMoore9@caesars.com>
Sent: Thursday, September 1, 2022 7:43 PM
To: Pitman, Deena <dpitman@hrc.IN.gov>

Subject: FW: Substitution Letter Attached

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hello Deena,

I just wanted to follow-up with a very brief email to see what the status might be of my substitution request might be.

Thank you again for your consideration.

Respectfully,

Rick

Rick Moore | *VP & General Manager of Racing*
O 765-609-4831
4500 Dan Patch Circle | Anderson, Indiana 46013

From: Rick Moore

Sent: Thursday, August 18, 2022 12:49 PM

To: Pitman, Deena <dpitman@hrc.IN.gov>

Cc: 'tmcintosh@caesars.com' <tmcintosh@caesars.com>; Joseph Morris <JMorris1@caesars.com>; Tim Lambert <tlambert@caesars.com>; Stephanie Talley <stalley@harrachs.com>

Subject: Substitution Letter Attached

Good afternoon, Deena,

Attached you will find a letter requesting your approval for a substitution item from the original 2022 Harrah's Hoosier Park 15-Year Equipment List.

As I state in my letter, we would very much appreciate any consideration you might give this request.

Respectfully,

Rick

Agenda Item #6

(Commission Members to reference additional **confidential** materials related financial transaction sent via separate e-mail)

Pitman, Deena

From: Sara.Tait@icemiller.com
Sent: Monday, September 26, 2022 1:48 PM
To: Pitman, Deena
Cc: P. Hendricks; Joseph Morris
Subject: Caesars Financing Ratification Request

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Executive Director Pitman,

Caesars Entertainment, Inc. ("Caesars") provided notice to the Indiana Horse Racing Commission (the "Commission") that it may undertake debt activity subject to regulation by the Indiana Gaming Commission (the "IGC"). Information concerning the debt activity and required pursuant to 68 Indiana Administrative Code 5-3-2 was provided to the IGC and the Commission. After conducting a review, on September 14, 2022, the IGC approved of these potential activities and ratification of the approval is on the agenda for its September 27, 2022, business meeting. On September 15, 2022, the Commission issued an interim approval.

In issuing interim approvals, both the Commission and the IGC reviewed these potential activities and found that the potential activities are appropriate under Indiana law. Pursuant to applicable securities and Indiana public access laws, such potential activities - including the transaction terms and structure - were described in detail to the Commission but are kept confidential and not subject to public disclosure. This process to undertake and receive approval for a debt financing transaction is long-standing and utilized not only by Caesars but other Indiana casino owner's licensees.

Caesars intends to use the proceeds of the potential financing transactions to make strategic business decisions. Caesars is confident that these potential transactions are in the best interest of the company. In accordance with Indiana Code 4-33-4-21, the proposed financing transactions do not result in the lease, hypothecation or borrowing against Harrah's Hoosier Park Racing and Casino or Horseshoe Indianapolis Racing and Casino. In addition, these new financings do not change the terms of the existing put-call contained in the lease with VICI nor is the Commission being asked to review the put-call at this time.

Caesars respectfully requests the Commission ratify Executive Director Pitman and Chairman Borst's interim approval concerning the proposed transactions.



[Sara Gonso Tait](#)

Partner

Sara.Tait@icemiller.com

p (317) 236-2203 c (317) 414-4061

Ice Miller LLP

One American Square

Suite 2900

Agenda Item #7

Presentation regarding Horseshoe Indianapolis activity involving Horseracing Integrity and Safety Act (HISA)