

Agenda Item #3-6

Ruling Log

Ruling Number	Ruling Date	Name	Breed	Violation Date	Violation	Fines	Suspended From	Suspended To	Days Suspended
14705	1/5/2015	Gregory Foley	TB	10/14/2014	Methylprednisolone				
14704	1/5/2015	Ralph Martinez	TB	8/6/2014	Dexamethasone	\$1500	1/6/2015	1/20/15	15
14703	1/5/2015	Donald Grego	TB	7/24/2014	Triamcinolone/ibuprofen	\$2000			
14135	1/13/2015	Matthew Waltz	SB	10/18/2014	Cobalt		3/27/2015	5/25/15	60
14134	1/13/2015	Karlee Roach	SB	5/17/2014	Testosterone				
14133	1/13/2015	Bill Cottingim	SB	7/30/2014	Methylprednisolone	\$2000			
14136	2/24/2015	Michael Johnson	SB	10/1/2014	Miscellaneous				
15000	3/11/2015	Michael Johnson	SB	10/14/2015	Cobalt		2/1/2015	7/30/15	180
15001	3/25/2015	Pasko Vucinaj	SB	10/8/2014	Cobalt				
15003	3/31/2015	Trent Stohler	SB	3/27/2015	Driving infraction	\$100			

Agenda Item # 4

Approval of #

Split Sample Laboratory

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Rule 10. Human Substance Abuse Testing

71 IAC 8-10-2 Applicant and licensee subject to testing

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. Each licensee at a race track or other facility under the control of the commission or applicant for a license may be subject to a urine **or saliva** test, **or both**, at any time while within the enclosure of any race track or other facility under the control of the commission at the direction of the executive director, the judges, or commission security if there is reasonable suspicion to believe that such licensee is possessing or using any controlled substance or any drug in violation of any federal or state law. This provision notwithstanding, licensees are subject to random urine **or saliva** testing pursuant to policies approved by the commission. Failure to submit to or complete a urine **or saliva** test at the time, location, and manner directed by commission personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete such a test shall be immediately suspended for sixty (60) days and shall not be allowed to participate at any race track under the control of the commission until a negative test result is achieved. Any applicant who fails to submit to such a test when requested to do so shall be refused or denied a license.

(Indiana Horse Racing Commission; 71 IAC 8-10-2; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1176, emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2918; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2081; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2414; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1670, eff Feb 24, 2000; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2222; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8-10-3 Reasonable suspicion selection

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) Applicants for a license or a licensee may be selected at any time while within the enclosure for testing on a reasonable suspicion basis.

(b) Reasonable suspicion. When determining whether there is reasonable suspicion to require testing, the judges may consider, but are not limited to, any of the following factors:

- (1) Unexplained or continued rule violations which have a detrimental effect on racing.
- (2) Involvement in any accident which causes injury to person or animal at the track as well as any near accident which created a clear danger of accident or injury to person or animal at the track.
- (3) Willful conduct detrimental to horse racing as evidenced by continued rule violations, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track.
- (4) Observable physical or emotional impairment at the track.
- (5) Involvement in a race of questionable outcome or circumstance as determined by the judges in the exercise of their expertise.
- (6) Willful abuse of animal or person who is engaged in a race, work, or exercise at the track.
- (7) Prior positive test or tests in this or other jurisdictions, excluding those where a valid legal prescription has been revealed.
- (8) Performance of prescribed duties in a manner which indicates a best effort to win is not present at the track.
- (9) Information supplied by:
 - (A) a law enforcement agency;
 - (B) the USTA;
 - (C) the ARCI; or
 - (D) the horse racing commission of any state or country; which is verified in writing relating to drug or alcohol abuse, or both.
- (10) Any other physical conduct at the track which can be documented which would indicate reasonable grounds to believe the existence of, dependence on, possession of, or usage of:
 - (A) a controlled substance; or
 - (B) an alcohol violation.
- (11) Refusal to provide a urine **or saliva** sample when requested to do so within this section.

(12) Recent arrest or pending criminal charges regarding the sale, possession, manufacture, cultivation, or use of illegal drugs.

(Indiana Horse Racing Commission; 71 IAC 8-10-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1176; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2081; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2414; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8-10-4 Taking of samples

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. Any applicant or licensee selected by direction of the judges, commission personnel, or their designee, who is requested to submit to a urine **or saliva** test shall, without undue delay, at a location and in the manner prescribed by the commission provide the urine **or saliva** sample, **or both**. *(Indiana Horse Racing Commission; 71 IAC 8-10-4; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1176; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)*

71 IAC 8-10-5 Positive sample results

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) A positive test result attained shall be reported in writing to the commission director of security or his or her designee from the laboratory performing the test analysis. A positive test result confirming the presence of any controlled substance or prescription drugs shall be prima facie evidence that there has been a violation of section 1 of this rule. In the event of such a positive test, it is presumed that:

(1) the sample of urine **or saliva** tested by the laboratory to which it is sent is taken from the person and its integrity has been preserved;

(2) all accompanying procedures of collection, preservation, transfer to the laboratory, and analysis of the sample are correct and accurate; and

(3) the report received from the laboratory pertains to the sample taken from the person in question and correctly reflects the condition of the person at the time that the sample was given. With respect to the presumptions set forth in this subsection, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter which is conducted by the judges or by the commission.

(b) Upon receipt of written notice from the testing laboratory that a specimen has been found positive for a controlled substance or a prescription drug, the commission director of security or his or her designee shall, as quickly as possible, notify the licensed person by:

(1) public service;

(2) in person; or

(3) by certified mail, return receipt requested; of the positive test.

(c) An association that has obtained a positive test result confirming the presence of any controlled substance in an association employee, who is a licensee or an applicant for a license, shall notify the commission director of security or his or her designee and the affected employee as quickly as possible.

(Indiana Horse Racing Commission; 71 IAC 8-10-5; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1176; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1670, eff Feb 24, 2000; errata filed Mar 13, 2000, 7:36 a.m.: 23 IR 1656; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2109; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8-10-6 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31

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

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

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee will receive a mandatory suspension of his or her license for a period of one (1) year and shall not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine **or saliva** samples, **or both**, thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

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

(c) In determining the penalty to impose for an offense covered by this rule, the judges or the commission may consider any mitigating and/or exacerbating circumstances and make an appropriate adjustment to the penalties which are set forth in subsection (a).

(Indiana Horse Racing Commission; 71 IAC 8-10-6; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1177; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2163; emergency rule filed Feb 24, 2000, 2:32 p.m.: 23 IR 1670, eff Feb 24, 2000; errata filed Mar 13, 2000, 7:36 a.m.: 23 IR 1656; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA)

Rule 10. Human Substance Abuse Testing

71 IAC 8.5-10-2 Applicant and licensee subject to testing

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. Each licensee at a race track or other facility under the control of the commission or applicant for a license may be subject to a urine **or saliva** test, **or both**, at any time while within the enclosure of any race track or other facility under the control of the commission at the direction of the executive director, the stewards, or commission security if there is reasonable suspicion to believe that such licensee is possessing or using any controlled substance or any drug in violation of any federal or state law. This provision notwithstanding, licensees are subject to random urine **or saliva** testing pursuant to policies approved by the commission. Failure to submit to or complete a urine **or saliva** test, at the time, location, and manner directed by commission personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete such a test shall be immediately suspended for sixty (60) days and shall not be allowed to participate at any race track under the control of the commission until a negative test result is achieved. Any applicant who fails to submit to such a test when requested to do so shall be refused or denied a license.

(Indiana Horse Racing Commission; 71 IAC 8.5-10-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2887, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2422; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2783; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2227; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8.5-10-3 Reasonable suspicion selection

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) Applicants for a license or a licensee may be selected at any time while within the enclosure for testing on a reasonable suspicion basis.

(b) Reasonable suspicion. When determining whether there is reasonable suspicion to require testing, the stewards may consider, but are not limited to, any of the following factors:

- (1) Unexplained or continued rule violations which have a detrimental effect on racing.
- (2) Involvement in any accident which causes injury to person or animal at the track as well as any near accident which created a clear danger of accident or injury to person or animal at the track.
- (3) Willful conduct detrimental to horse racing as evidenced by continued rule violations, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track.
- (4) Observable physical or emotional impairment at the track.
- (5) Involvement in a race of questionable outcome or circumstance as determined by the stewards in the exercise of their expertise.
- (6) Willful abuse of animal or person who is engaged in a race, work, or exercise at the track.
- (7) Prior positive test or tests in this or other jurisdictions, excluding those where a valid legal prescription has been revealed.
- (8) Performance of prescribed duties in a manner which indicates a best effort to win is not present at the track.
- (9) Information supplied by:
 - (A) a law enforcement agency;
 - (B) the ARCI; or
 - (C) the horse racing commission of any state or country; which is verified in writing relating to drug or alcohol abuse, or both.
- (10) Any other physical conduct at the track which can be documented which would indicate reasonable grounds to believe the existence of, dependence on, possession of, or usage of:
 - (A) a controlled substance; or
 - (B) an alcohol violation.
- (11) Refusal to provide a urine **or saliva** sample when requested to do so within this section.
- (12) Recent arrest or pending criminal charges regarding the sale, possession, manufacture, cultivation or use of illegal drugs.

(Indiana Horse Racing Commission; 71 IAC 8.5-10-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2887, eff Jul 1, 1995; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2894; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2422; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8.5-10-4 Taking of samples

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. Any applicant or licensee selected by direction of the stewards, commission personnel, or their designee, who is requested to submit to a urine **or saliva** test shall, without undue delay, at a location and in the manner prescribed by the commission provide the urine **or saliva** sample, **or both**.

(Indiana Horse Racing Commission; 71 IAC 8.5-10-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2887, eff Jul 1, 1995; 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 Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA)

71 IAC 8.5-10-5 Positive sample results

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) A positive test result attained shall be reported in writing to the commission director of security or his or her designee from the laboratory performing the test analysis. A positive test result confirming the presence of any controlled substance or prescription drugs shall be prima facie evidence that there has been a violation of section 1 of this rule. In the event of such a positive test, it is presumed that:

(1) the sample of urine **or saliva** tested by the laboratory to which it is sent is taken from the person and its integrity has been preserved;

(2) all accompanying procedures of collection, preservation, transfer to the laboratory, and analysis of the sample are correct and accurate; and

(3) the report received from the laboratory pertains to the sample taken from the person in question and correctly reflects the condition of the person at the time that the sample was given. With respect to the presumptions set forth in this subsection, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter which is conducted by the stewards or by the commission.

(b) Upon receipt of written notice from the testing laboratory that a specimen has been found positive for a controlled substance or a prescription drug, the commission director of security or his or her designee shall, as quickly as possible, notify the licensed person by:

(1) public service;

(2) in person; or

(3) by certified mail, return receipt requested; of the positive test.

(c) An association that has obtained a positive test result confirming the presence of any controlled substance in an association employee, who is a licensee or an applicant for a license, shall notify the commission director of security or his or her designee and the affected employee as quickly as possible.

(Indiana Horse Racing Commission; 71 IAC 8.5-10-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 122; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

71 IAC 8.5-10-6 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31

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

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

(2) For a second violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The requirements shall include an additional drug test with negative results. Such test shall be under the supervision or approval of the commission.

(3) For a third violation, the licensee shall be suspended for a minimum of sixty (60) days and shall be required to enroll in a substance abuse treatment program approved by the commission. It shall be the licensee's responsibility to provide the commission with written notice of his or her enrollment, weekly status reports, and written notice that he or she has successfully completed the program and has been discharged. The licensee shall remain suspended until the requirements have been fulfilled. The person shall not be eligible to reapply for his or her license until the applicant pays for and submits to two (2) urine **or saliva** samples, **or both**, thirty (30) days apart with both samples failing to show any trace of a controlled substance or prescription drug. All such samples shall be obtained and tested by the commission or approved by the commission at a location and in a manner prescribed by the commission and at the expense of the licensee. After the licensee has received two (2) negative tests, he or she may reapply for a license unless his or her continuing participation at a race meeting shall be deemed by the commission director of security or his or her designee to be detrimental to the best interest of horse racing.

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

(c) In determining the penalty to impose for an offense covered by this rule, the stewards or the commission may consider any mitigating or exacerbating circumstances and make an appropriate adjustment to the penalties which are set forth in subsection (a).

(Indiana Horse Racing Commission; 71 IAC 8.5-10-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2158; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 58; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-07107003ORFA; emergency rule filed Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA)

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

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 3. (a) The results of all tests performed by the primary laboratory or laboratories are confidential until such time a ruling is issued in that matter and shall only be communicated to the commission, commission staff, judges, owner, and trainer. Notice of a positive test result may be communicated verbally to the trainer. The trainer shall be responsible for promptly notifying the owner of a horse of a positive test as reported by the primary laboratory.

(b) The trainer or owner of a horse for which a positive result on a drug test is returned may request that the judges submit the retained part of the specimen for testing in accordance with this section. The specimen must be tested by a laboratory that is identified on the list of approved laboratories maintained by the commission and acceptable to the following:

(1) The commission.

(2) The primary laboratory.

Laboratories providing split sample testing shall be ISO 17025 accredited unless otherwise approved by the commission. The request must be in writing, include the laboratory selection, and must be delivered to the judges not later than ninety-six (96) hours after the trainer has received notice of a positive test result. Failure to request testing of a split sample and provide all necessary information within ninety-six (96) hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained applicable list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

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

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

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

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

(g) The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, flunixin, ketoprofen, furosemide, or as permitted in 71 IAC 8-1-4.2 and 71 IAC 8-1-9, is sufficient for a finding of a positive test. (*Indiana Horse Racing Commission; 71 IAC 8-4-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1173; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2916; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1504; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:05 p.m.: 21 IR 4231; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; 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 Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA)*)

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

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 3. (a) The results of all tests performed by the primary laboratory or laboratories are confidential until such time a ruling is issued in that matter and shall only be communicated to the commission, commission staff, stewards, owner, and trainer. Notice of a positive test result may be communicated verbally to the trainer. The trainer shall be responsible for promptly notifying the owner of a horse of a positive test as reported by the primary laboratory.

(b) The trainer or owner of a horse for which a positive result on a drug test is returned may request that the stewards submit the retained part of the specimen for testing in accordance with this section. The specimen must be tested by a laboratory that is identified on the list of approved laboratories maintained by the commission and acceptable to the following:

(1) The commission.

(2) The primary laboratory.

Laboratories providing split sample testing shall be ISO 17025 accredited unless otherwise approved by the commission. The request must be in writing, include the laboratory selection, and must be delivered to the stewards not later than ninety-six (96) hours after the trainer has received notice of a positive test result. Failure to request testing of a split sample and provide all necessary information within ninety-six (96) hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained applicable list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

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

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

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

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

(g) The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, flunixin, ketoprofen, furosemide, or as permitted in 71 IAC 8.5-1-4.2 and 71 IAC 8.5-1-9, is sufficient for a finding of a positive test. (*Indiana Horse Racing Commission; 71 IAC 8.5-3-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2883, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:08 p.m.: 21 IR 4232; readopted filed Oct 30, 2001, 11:50a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; 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-IR071070461ACA; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA)*)