

TITLE 71 INDIANA HORSE RACING COMMISSION

Emergency Rule LSA Document #19-___(E)

DIGEST

Amends 71 IAC 2-5-1 regarding employees. Adds 71 IAC 2-8-2 regarding confidentiality. Amends 71 IAC 3-2-9 regarding judge's list. Amends 71 IAC 3.5-3-2 regarding registration certificates. Amends 71 IAC 4-3-15 regarding pylons. Amends 71 IAC 5-1-14 regarding grounds for sanctions. Amends 71 IAC 5.5-1-14 regarding grounds for sanctions. Amends 71 IAC 5.5-1-21 regarding conflicts of interest. Amends 71 IAC 6-1-1 regarding general provisions. Amends 71 IAC 6.5-1-3 regarding claim certificate. Amend 71 IAC 6.5-1-4 regarding prohibitions. Amends 71 IAC 7-1-11 regarding proof of identity. Amends 71 IAC 7-2-8 regarding riding in gate, equipment, and two tiers. Amends 71 IAC 7-3-7 regarding driving rules. Amends 71 IAC 7-3-11 regarding improper conduct in a race. Amends 71 IAC 7-3-16 regarding breaking. Amends 71 IAC 7-3-37 regarding passing lane. Amends 71 IAC 7.5-1-2 regarding procedures. Amends 71 IAC 7.5-1-4 regarding coupled entries. Amends 71 IAC 7.5-1-8 regarding split or divided races. Amends 71 IAC 7.5-4-1 regarding requirements. Amends 71 IAC 7.5-4-2 regarding identification. Amends 71 IAC 7.5-5-1 regarding horses ineligible. Amends 71 IAC 8-1-4.2 regarding threshold levels. Amends 71 IAC 8-3-5 regarding out of competition testing. Adds 71 IAC 8.5-1-2.3 regarding other beta-agonist drugs. Amends 71 IAC 8.5-1-4.2 regarding threshold levels. Amends 71 IAC 8.5-2-5 regarding out of competition testing. Amends 71 IAC 8.5-8-1.5 regarding veterinarian's list for quarter horse albuterol and clenbuterol positive. Adds 71 IAC 8.5-8-1.6 regarding veterinarian's list for other beta-agonist positive. Amends 71 IAC 9-2.2-3 regarding application submission and reimbursement of costs. Amends 71 IAC 9-2.2-12 regarding enforcement and penalties. Amends 71 IAC 9-2.2-13 regarding unlicensed secondary pari-mutuel organizations. Amends 71 IAC 9-2.2-14 regarding action by permit holder against unlicensed secondary pari-mutuel organization. Amends 71 IAC 10-3-20 regarding administrative complaints. Amends 71 IAC 13-1-1 regarding registration of horsemen's associations. Effective upon filing with the Publisher.

SECTION 1. 71 IAC 2-5-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 2-5-1 Employees
Authority: IC 4-31-3-9
Affected: IC 4-31-7-9

Sec. 1. (a) The commission shall employ an executive director and an assistant executive director who shall employ other employees necessary to implement, administer, and enforce the Act.

(b) The executive director and assistant executive director shall maintain the records of the commission and shall perform other duties as required by the commission. Except as otherwise provided by ~~these rules~~, **this title**, if a rule of the commission places a duty on the executive director, the executive director may delegate that duty to another employee of the commission. The commission, the executive director, and the assistant executive director may not employ or continue to employ a person:

- (1) who owns a financial interest in an association in this jurisdiction;
- (2) who accepts remuneration from an association in this jurisdiction, unless otherwise

approved by the commission or the executive director;

(3) who is an owner, lessor, or lessee of a horse that is entered in a race in this jurisdiction; or

(4) who accepts or is entitled to a part of the purse or purse supplement to be paid on a horse in a race held in this jurisdiction.

(c) No person identified in ~~IC 4-31-7-9~~ **may IC 4-31-7-9(a) shall** wager directly or indirectly on live racing or on any simulcast races received at an Indiana track or satellite facility at any time.

(d) ~~The executive director, assistant executive director, director of security, stewards, and judges~~ **No person identified in IC 4-31-7-9(b) shall not** wager directly or indirectly on any gambling game located on association grounds at any time.

(e) The commission shall appoint the judges at each racing meeting.

(Indiana Horse Racing Commission; 71 IAC 2-5-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1124; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2825, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2069; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2424; 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 May 12, 2008, 1:29 p.m.: 20080521-IR-071080353ERA; emergency rule filed Mar 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Dec 23, 2013, 1:43 p.m.: 20140108-IR-071130567ERA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 2. 71 IAC 2-8-2 IS ADDED TO READ AS FOLLOWS:

71 IAC 2-8-2 Confidentiality

Authority: IC 4-31-3-9; IC 4-31-6-2

Affected: IC 4-31

Sec. 1. (a) The following information submitted, collected, or gathered as part of an application to the commission for a license as required by 71 IAC 5-1-1 or 71 IAC 5.5-1-1 is confidential for purposes of IC 5-14-3-4:

- (1) A Social Security number.**
- (2) A date of birth.**
- (3) A home address.**
- (4) A home or personal cellular telephone number.**
- (5) An email address.**
- (6) Name of current or former spouse, including maiden name or alias, or both.**
- (7) Name of emergency contact.**
- (8) Telephone number of emergency contact.**
- (9) State and city of applicant's birth.**
- (10) Any information concerning a victim of domestic violence, sexual assault, or stalking.**
- (11) Any information concerning a minor child of the applicant or a minor participating in a program under the jurisdiction of the commission.**
- (12) All information classified as confidential by 71 IAC 9-2.1-7.**

(b) An individual who holds, held, or has applied for a commission license under this article may waive the confidentiality requirements of subsection (a).

(c) Any disclosable data under IC 5-14-3 received, by any person making a request,

on disk, on tape, on other electronic media or memory, by download, by electronic file, through a service, or any similar method may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person or entity for these, or similar, purposes.

(d) Use of information received under subsection (c) in connection with the publication of news, for nonprofit activities, or for academic research is not prohibited. *(Indiana Horse Racing Commission; 71 IAC 2-8-2)*

SECTION 3. 71 IAC 3-2-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3-2-9 Judge's list

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 9. (a) The judges shall maintain a judge's list of the horses that are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the race track that may endanger the health and safety of the participants and for the protection of the wagering public. The reasons for a horse to be placed on the judge's list and ordered to qualify shall include, but not be limited to, the following on a fast or good track:

(1) Making a break in a qualifying race.

(2) Making a break in a race following a qualifying race, if on the list for breaks, unless finishing first, second, or third. Two (2) year old nonwagering purse races for three hundred dollars (\$300) or less shall be considered a qualifying race.

(3) Poor performance or failure to go in a qualifying time.

(4) Poor performance in a qualifying race regardless of going in qualifying time.

(5) Making breaks in two (2) consecutive starts unless finishing first, second, or third in one (1) of the two (2).

(6) Being scratched sick or lame in two (2) consecutive programs.

(7) Numerous bad lines in its last six (6) starts regardless of being consecutive on finishing first, second, or third.

(8) Poor performance while competing in a race followed by a break later in that race.

(9) Any horse making its first pari-mutuel start making a break unless finishing first, second, or third.

(10) Failing to finish a race for any reason except in the case of accident, broken equipment, or interference.

(b) Any horse on the veterinarian's list shall also be considered to be on the judge's list and ineligible to race until removed.

(c) Any horse that has tested positive for a foreign substance in violation of ~~these rules~~ **this title** that has not been cleared by the official veterinarian or judges shall be considered to be on the judge's list and ineligible to race until removed.

(d) Horses racing at all county fair race tracks that return to pari-mutuel race tracks to compete must have a clean charted line in qualifying time within forty-five (45) days or they must requalify. Time allowances for half-mile tracks shall be set by the race secretary at the pari-mutuel track, except as indicated in the conditions of the Indiana sires stakes.

(e) Horses that are on the judge's list or are not eligible to compete due to the qualifying standards at the Indiana pari-mutuel race track may be allowed to compete in "paid in events" if they have a clean line in qualifying time in the last thirty (30) days (race date to race date) unless declared ineligible under subsection (h) or (i).

(f) The judges may place a horse on the judge's list when there exists a question as to the exact identification, ownership, or trainer of a horse.

(g) A horse may not be released from the judge's list without permission of the judges.

(h) Qualifying standards shall not be waived for non-Indiana late closers, Indiana sire stakes finals, late closer finals, and all "paid in events" if there exists a compromise with the health and safety of the participants in those races.

(i) Horses that are placed on the veterinarian's or judge's list as sick, lame, or injured for a specified number of days, which includes the race date or are required to qualify before racing by the veterinarian or starter, shall not be eligible to race under subsection (e).

(Indiana Horse Racing Commission; 71 IAC 3-2-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1129; emergency rule filed Apr 9, 1998, 1:18 p.m.: 21 IR 3377; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2534; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2380; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1911; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2754; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2745; emergency rule filed Jan 25, 2006, 10:30 a.m.: 29 IR 1955; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Mar 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 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; emergency rule filed Mar 8, 2012, 11:43 a.m.: 20120321-IR-071120117ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Mar 30, 2016, 12:18 p.m.: 20160406-IR-071160138ERA; emergency rule filed Jun 10, 2016, 11:11 a.m.: 20160615-IR-071160257ERA; emergency rule filed Feb 3, 2017, 2:24 p.m.: 20170208-IR-071170051ERA; emergency rule filed Mar 17, 2017, 1:04 p.m.: 20170322-IR-071170167ERA; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA; 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; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 4. 71 IAC 3.5-3-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3.5-3-2 Registration certificates

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. The racing secretary is responsible for receiving and safeguarding the registration certificates of all **quarter** horses competing at the track or stabled on association grounds.

(Indiana Horse Racing Commission; 71 IAC 3.5-3-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2831, 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; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 5. 71 IAC 4-3-15 IS AMENDED TO READ AS FOLLOWS:

71 IAC 4-3-15 Pylons
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 15. (a) If, at a race track ~~which~~ **that** has pylon demarcations, a horse or the horse's sulky leaves the course by ~~brushing, running over, and/or~~ going inside of the pylons, **a pylon**, that horse may be penalized by a placing **by the judges**. ~~if in the opinion of the judges:~~

- ~~(1) it gave the horse an unfair advantage over other horses in the race;~~
- ~~(2) it helped the horse improve its position in the race; or~~
- ~~(3) the driver goes inside the pylons and does not immediately correct position.~~

(b) For purposes of placing, the term "going inside of a pylon" means any instance where a wheel goes completely inside the inner limits of the course without striking the base of a pylon, and the following shall apply:

(1) Only the pylons set in accordance with subsection (g)(3) and (g)(4) shall be considered for placings or violations, or both.

(2) If a horse, while on stride, goes inside two (2) consecutive pylons, the offending horse shall be placed behind all horses that are lapped on to the offending horse at the wire.

(3) If a horse, while on stride, goes inside three (3) or more consecutive pylons, the offending horse may be placed last.

(4) If a horse, while on stride, goes inside a pylon or pylons and that action gave the horse an unfair advantage over other horses in the race or the action helped improve its position in the race, the horse may be placed at the discretion of the judges.

(c) If the driver goes inside the pylons and does not immediately correct position, the horse may be penalized by a placing.

~~(b)~~**(d) Horses using the inside to pass must have complete clearance of the pylons.**

~~(e)~~**(e) Drivers striking pylons but not gaining an unfair advantage may be fined.**

~~(d)~~**(f) When an act of interference causes a horse or part of the horse's sulky to be in violation of these rules this title and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered.**

~~(e)~~**(g) Pylons shall be spaced consistently and shall be:**

- (1) thirty (30) inches above ground level;**
- (2) at a thirty (30) degree angle, facing inward to the track surface on the turns;**
- (3) forty (40) feet apart on the turns; and**
- (4) sixty (60) feet apart on the straightaway.**

(Indiana Horse Racing Commission; 71 IAC 4-3-15; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3125, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2098; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1912; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 6. 71 IAC 5-1-14 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5-1-14 Grounds for sanctions

Authority: IC 4-31-6-2; IC 4-31-13-1

Affected: IC 4-31-3-13; IC 4-31-6-6

Sec. 14. (a) The commission, **the judges, or the executive director as the commission's designee**, may refuse or deny a license application, revoke or suspend a license, or otherwise penalize a licensee, or other person, if:

(1) the refusal, denial, revocation, suspension, or other penalty is in the public interest for the purpose of maintaining proper control over horse racing meetings or pari-mutuel wagering; and

(2) any of the conditions listed in subsection (b) apply to the applicant or licensee or person.

(b) The conditions referred to in subsection (a) include, but are not limited to, the following:

(1) The person has been convicted of a felony or misdemeanor that could compromise the integrity of racing by the applicant's or licensee's participation in racing.

(2) The person has had a license of the legally constituted racing or gaming authority of a state, province, or country denied, suspended, or revoked for cause within the preceding five (5) years.

(3) The person is presently under suspension for cause of a license by the legally constituted racing authority of a state, province, or country.

(4) The person has violated or attempted to violate a provision of this article, ~~these rules,~~ **this title**, or a law or rule with respect to horse racing in a jurisdiction.

(5) The person has perpetrated or attempted to perpetrate a fraud or misrepresentation in connection with the racing or breeding of horses or pari-mutuel wagering.

(6) The person has demonstrated financial irresponsibility by accumulating unpaid obligations, defaulting on obligations, or issuing drafts or checks that are dishonored or not paid.

(7) The applicant or licensee has made a material misrepresentation in an application for a license.

(8) The person has been convicted of a crime involving bookmaking, touting, or similar pursuits or has consorted with a person convicted of such an offense.

(9) The person has abandoned, mistreated, abused, neglected, or engaged in an act of cruelty to a horse.

(10) The person has engaged in conduct that is against the best interest of horse racing or compromises the integrity of operations at a track or satellite facility.

(11) The person has failed to comply with a written order or ruling of the commission or judges pertaining to a racing matter.

(12) The person has failed to answer correctly under oath, to the best of the person's knowledge, all questions asked by the commission or its representatives pertaining to a racing matter.

(13) The person has failed to comply with a summons issued by the executive director or director of security pursuant to IC 4-31-3-13(c).

(14) The person has failed to return to a permit holder any purse money, trophies, or awards paid in error or ordered redistributed by the commission.

(15) The person has had possession of an alcoholic beverage on a permit holder's premises, other than a beverage legally sold through the permit holder's concession operation.

(16) The person has interfered with or obstructed a member of the commission, a commission employee, or a racing official while performing official ~~duties.~~ **duties.**

(17) The name of the applicant or licensee appears on the department of state revenue's most recent tax warrant list, and the person's delinquent tax liability has not been satisfied.

(18) The person has pending criminal charges.

(19) The person has racing or gaming disciplinary charges pending in this state or other jurisdictions.

(20) The applicant or licensee is unqualified to perform the duties required.

(21) The person has made a material misrepresentation in the process of registering, nominating, entering, or racing a horse as an Indiana owned, Indiana bred, or Indiana sired.

(22) The applicant or licensee is an illegal alien.

(c) A license suspension or revocation shall be reported in writing to the applicant, the USTA, and the ARCI, whereby other racing jurisdictions shall be advised.

(Indiana Horse Racing Commission; 71 IAC 5-1-14; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1141; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2847, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2074; emergency rule filed Feb 12, 1998, 4:15 p.m.: 21 IR 2396; 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; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 7. 71 IAC 5.5-1-14 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5.5-1-14 Grounds for sanctions

Authority: IC 4-31-6-2; IC 4-31-13-1

Affected: IC 4-31-3-13; IC 4-31-6-6

Sec. 14. (a) The commission, **the stewards, or the executive director as the commission's designee** may refuse or deny a license application, revoke or suspend a license, or otherwise penalize a licensee, or other person, if:

(1) the refusal, denial, revocation, suspension, or other penalty is in the public interest for the purpose of maintaining proper control over horse racing meetings or pari-mutuel wagering; and

(2) any of the conditions listed in subsection (b) apply to the applicant or licensee or person.

(b) The conditions referred to in subsection (a) include, but are not limited to, the following:

(1) The person has been convicted of a felony or misdemeanor that could compromise the integrity of racing by the applicant's or licensee's participation in racing.

(2) The person has had a license of the legally constituted racing or gaming authority of a state, province, or country denied, suspended, or revoked for cause within the preceding five (5) years.

(3) The person is presently under suspension for cause of a license by the legally constituted racing authority of a state, province, or country.

(4) The person has violated or attempted to violate a provision of this article, ~~these rules,~~ **this title**, or a law or rule with respect to horse racing in a jurisdiction.

(5) The person has perpetrated or attempted to perpetrate a fraud or misrepresentation in connection with the racing or breeding of horses or pari-mutuel wagering.

(6) The person has demonstrated financial irresponsibility by accumulating unpaid obligations, defaulting on obligations, or issuing drafts or checks that are dishonored or not paid.

(7) The applicant or licensee has made a material misrepresentation in an application for a license.

(8) The person has been convicted of a crime involving bookmaking, touting, or similar pursuits or has consorted with a person convicted of such an offense.

(9) The person has abandoned, mistreated, abused, neglected, or engaged in an act of

cruelty to a horse.

(10) The person has engaged in conduct that is against the best interest of horse racing or compromises the integrity of operations at a track or satellite facility.

(11) The person has failed to comply with a written order or ruling of the commission or judges pertaining to a racing matter.

(12) The person has failed to answer correctly under oath, to the best of the person's knowledge, all questions asked by the commission or its representatives pertaining to a racing matter.

(13) The person has failed to comply with a summons issued by the executive director or director of security pursuant to IC 4-31-3-13(c).

(14) The person has failed to return to a permit holder any purse money, trophies, or awards paid in error or ordered redistributed by the commission.

(15) The person has had possession of an alcoholic beverage on a permit holder's premises, other than a beverage legally sold through the permit holder's concession operation.

(16) The person has interfered with or obstructed a member of the commission, a commission employee, or a racing official while performing official duties.

(17) The name of the applicant or licensee appears on the department of state revenue's most recent tax warrant list, and the person's delinquent tax liability has not been satisfied.

(18) The person has pending criminal charges.

(19) The person has racing or gaming disciplinary charges pending in this state or other jurisdictions.

(20) The applicant or licensee is unqualified to perform the duties required.

(21) The person has made a material misrepresentation in the process of registering, nominating, entering, or racing a horse as an Indiana owned, Indiana bred, or Indiana sired.

(22) The applicant or licensee is an illegal alien.

(c) A license suspension or revocation shall be reported in writing to the applicant, the USTA, and the ARCI, whereby other racing jurisdictions shall be advised.

(Indiana Horse Racing Commission; 71 IAC 5.5-1-14; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2851, eff Jul 1, 1995; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2891; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2416; 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; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 8. 71 IAC 5.5-1-21 IS AMENDED TO READ AS FOLLOWS:

71 IAC 5.5-1-21 Conflict of interest

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 21. (a) The commission or its designee shall refuse, deny, suspend, or revoke the license of a person whose spouse holds a license and which the commission or stewards find to be a conflict of interest.

(b) A commissioner, commission employee, or racing official shall not be an owner of a horse and shall not accept breeder awards at a race meeting where they have jurisdiction.

(c) A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official with respect to that race.

(d) A person who is licensed as an owner or trainer, or has any financial interest in a horse registered for racing at a race meeting in this jurisdiction shall not be employed or licensed at that

race meeting as any of the following:

- (1) Racing official.
- (2) Assistant starter.
- (3) Practicing veterinarian.
- (4) Veterinary helper.
- (5) Officer or managing employee.
- (6) Track maintenance supervisor or employee.
- (7) Outrider.
- (8) Race track security employee.
- (9) Horseshoer.
- (10) Photo finish operator.
- (11) Horsemen's bookkeeper.
- (12) Racing chemist.
- (13) Testing laboratory employee.
- (14) Valet.**

(e) Veterinary helpers shall not be licensed in any other capacity that allows access to the stable area.

(Indiana Horse Racing Commission; 71 IAC 5.5-1-21; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2853, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2213; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 9. 71 IAC 6-1-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-1-1 General provisions
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. (a) A registration certificate of current ownership, together with the application for transfer thereon duly endorsed by all registered owners, must be filed in the office of the racing secretary for all horses claimed within a reasonable time after the race from which the horse was claimed.

(b) The price allowances that govern for claiming races must be approved by the commission. Claiming prices recorded on past performance lines in the daily race program shall not include allowances.

(c) The claiming price, including any allowances, of each horse shall be printed on the official program adjacent to the horse's program number and claims shall be for the amount designated, subject to correction if printed in error.

(d) In handicap claiming races, in the event of an also eligible horse moving into the race, the also eligible horse shall take the place of the horse that it replaces provided that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap, except when the horse that is scratched is a trailing horse, in which case the also eligible horse shall take the trailing position, regardless of its handicap. In handicap claiming races with one (1) trailer, the trailer shall be determined as the fourth best post position.

(e) To be eligible to be claimed, a horse must start in the event in which it has been declared to race. For the purposes of this rule, a horse shall be deemed to have started if it is behind the gate when the field is released at the starting point by the starter. The racing secretary or his **or her**

designee is responsible to process claims within three (3) business days from the date of which the claim occurred.

(f) Any:

(1) licensed owner;

(2) authorized agent of a licensed owner who holds a current valid commission license; or

(3) person who has properly applied for and been granted a claiming certificate;

shall be permitted to claim any horse. Any person or authorized agent eligible to claim a horse shall be allowed access to the grounds of the association, excluding the paddock, in order to effect a claim at the designated place of making claims and to take possession of the horse claimed.

(g) ~~Claiming certificates shall not be effective until the next racing day following the date of approval by the judges and~~ expire at the end of the race meeting for which they are granted. These certificates may be applied for at the commission's licensing office no later than ninety (90) minutes prior to post time for the first race on any day of racing. To be eligible for a claiming certificate, a person must complete the licensing process as an owner under 71 IAC 5-2 and pay the appropriate fees. The photo identification badge shall be withheld until the person becomes a successful claimant.

(h) A person not previously licensed by the commission within the last two (2) years must apply for a claiming certificate via fax, mail, electronically, or in person.

(Indiana Horse Racing Commission; 71 IAC 6-1-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1148; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1499; errata filed Feb 9, 1995, 2:00 p.m.: 18 IR 1481; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2861, eff Jul 1, 1995; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2399; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101; 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 8, 2012, 11:43 a.m.: 20120321-IR-071120117ERA; emergency rule filed Mar 17, 2017, 1:04 p.m.: 20170322-IR-071170167ERA; 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)

SECTION 10. 71 IAC 6.5-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6.5-1-3 Claim certificate

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) Any owner may claim any horse subject to be claimed in flat racing in Indiana provided the owner:

(1) ~~has foal papers on file in the Indiana Grand racing office and~~ has started a horse at the current race meeting; or

(2) has been issued an open claiming certificate by the stewards.

(b) All quarter horses must have the required foal paperwork on file with the Indiana Grand racing office, to be subject to claim.

~~(b)~~**(c)** The stewards shall issue an open claiming certificate to any person who:

(1) makes application for an owner's license;

(2) meets all requirements for the issuance of an owner's license;

(3) does not own, nor has a spouse who:

(A) owns a horse who is eligible and able to race at Indiana Grand; or

(B) has foal papers on file in the Indiana Grand racing office with respect to a horse eligible to race at Indiana Grand;

(4) has an agreement with a trainer licensed in Indiana to take charge of, care for, and train any horse claimed by the holder of the open claiming certificate; and

(5) has at a minimum, the amount of the claim and applicable taxes on deposit with the horsemen's bookkeeper.

~~(e)~~(d) An open claiming certificate may not be issued to any person licensed as a trainer in any jurisdiction unless the trainer is a member of a partnership, limited liability company, corporation, or other entity that would otherwise be eligible for an open claiming certificate, and the claim is being made by that entity.

~~(d)~~(e) The open claiming certificate shall be valid for the calendar year in which it is issued or until the person to whom the open claiming certificate is issued executes a claim and becomes an owner of a horse through the use of the open claiming certificate, whichever period is shorter.

~~(e)~~(f) An open claiming certificate shall not be effective until the next racing day following the date of approval by the stewards.

~~(f)~~(g) The open claiming certificate shall be enclosed in the envelope provided for the purpose of claiming by the racing office.

(Indiana Horse Racing Commission; 71 IAC 6.5-1-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2862, 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; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Jun 10, 2016, 11:11 a.m.: 20160615-IR-071160257ERA; emergency rule filed Apr 18, 2017, 12:54 p.m.: 20170426-IR-071170215ERA; emergency rule filed Mar 15, 2019, 2:42 p.m.: 20190320-IR-071190167ERA)

SECTION 11. 71 IAC 6.5-1-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6.5-1-4 Prohibitions

Authority: IC 4-31-3-9

Affected: IC 4-31

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

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

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

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

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

(f) The association shall ensure the claim box is locked. The association shall unlock the claim box only after the deadline for claiming a horse has passed.

(g) For a period of thirty (30) days after a claim, a horse shall not start in a race in which the determining eligibility price is less than the price at which it was claimed. The day claimed shall not count for purposes of counting the applicable thirty (30) day period, and for this purpose the immediate following calendar day after the day claimed shall be the first day. The horse shall be entitled to enter whenever necessary so that the horse may start on the thirty-first calendar day following the claim for any claiming price.

(h) A horse claimed in a claiming race shall not be sold or transferred, wholly or in

part, within thirty (30) days after the day it was claimed, except in another claiming race.
(Indiana Horse Racing Commission; 71 IAC 6.5-1-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2862, eff Jul 1, 1995; emergency rule filed June 8, 1999, 9:30 a.m.: 22 IR 3121, eff May 26, 1999 [NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 55; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; 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 Apr 30, 2010, 1:34 p.m.: 20100505-IR-071100256ERA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Mar 30, 2016, 12:18 p.m.: 20160406-IR-071160138ERA; emergency rule filed Apr 18, 2017, 12:54 p.m.: 20170426-IR-071170215ERA; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA)

SECTION 12. 71 IAC 7-1-11 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-11 Proof of identity
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 11. (a) No horse may start in any race unless it is fully identified. The burden of proving identity rests with the person or persons having charge of the horse at the meeting, and the judges may suspend and refer to the commission such persons in case of fraud or attempted fraud. The judges also may suspend and refer to the commission any other person who aids in any way in the perpetration of a fraud or who participates in any attempt at fraud.

(b) No horse shall be allowed to race in a race or in a qualifying race unless it has been lip-tattooed or freeze brand **branded or microchipped** as recognized by the USTA.

(c) No horse shall be allowed to race in a pari-mutuel event or a qualifying race unless its lip tattoo ~~and/or~~ **or freeze brand or microchip** and markings are recognized and identified to the satisfaction of the Indiana horse racing commission licensed identifier.

(Indiana Horse Racing Commission; 71 IAC 7-1-11; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1152; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2863, eff Jul 1, 1995; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2404; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1917; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 13. 71 IAC 7-2-8 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-2-8 Riding in gate; equipment; two tiers
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 8. (a) No persons shall be allowed to ride in the starting gate except the starter and his or her driver or operator and a patrol judge unless permission has been granted by the commission.

(b) Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.

(c) In the event there are two (2) tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier. Whenever a horse is drawn from any tier, horses on the outside move in to fill the vacancy. ~~Where a horse has drawn a post position in the second tier, the driver of such horse may elect to score out behind any horse in the first tier so long as he or she does not thereby interfere with another trailing horse or deprive another trailing horse of a drawn position.~~

In a race with a single trailer, the driver may select any position in the second tier. In a race with multiple trailers, the driver of the first horse in the second tier may elect to score out behind the first or second horse in the first tier. The horse drawing the second post in the second tier shall score behind the third or fourth horse in the first tier. The horse drawing the third post in the second tier shall score behind the fifth or sixth horse.

(Indiana Horse Racing Commission; 71 IAC 7-2-8; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1159; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1918; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 14. 71 IAC 7-3-7 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-7 Driving rules

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 7. (a) ~~Although a leading horse is entitled to any part of the track,~~ **A leading horse is not to be more than four (4) feet from the inside rail/pylons except after selecting its position in the home stretch.** Neither the driver of the first horse ~~or~~ **nor** any other driver in the race shall do any of the following, which shall be considered a violation of driving rules:

- (1) Change either to the right or left during any part of the race when another horse is so near that in altering the position the horse behind is compelled to shorten its stride or the driver of the horse behind is forced to pull the horse out of its stride.
- (2) Jostle, strike, hook wheels, or interfere with another horse or driver.
- (3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers.
- (4) Swerve in and out or pull up quickly.
- (5) Crowd a horse or driver by putting a wheel under the horse or driver.
- (6) Carry a horse out.
- (7) Sit down in front of a horse or take up abruptly in front of other horses so as to cause confusion or interference among trailing horses.
- (8) Let a horse pass inside or outside needlessly or otherwise help another horse to improve its position in the race.
- (9) Commit any act ~~which~~ **that** shall impede the progress of another horse or cause it to break.
- (10) Change course after selecting a position in the homestretch, swerve in and out, or bear in and out in such a manner as to interfere with another horse or cause it to break.
- (11) Drive in a careless or reckless manner.
- (12) Maintaining a position of half in and half out.

(13) Lay off a normal place and leave a hole when it is well within a horse's capacity to keep the hole closed when there is no strategic reason to do so.

(14) If any of the violations in this subsection is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back if, in their opinion, the violation helped improve the entry's finishing position. Otherwise, penalties may be applied individually to the drivers of any entry.

(15) Drivers must set and maintain a pace comparable to the class in which the driver is racing or the horse's abilities.

(16) Drivers at any point in the race after the start who use the outrider or starting gate to assist in getting control of their horse may be placed last by the judges.

(17) Turn the horse abruptly after the finish of the race in order to return to the paddock or the barn area.

(b) All complaints by drivers of any foul driving or other misconduct during the heat must be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury. Any driver desiring to enter a claim of foul or other complaint of violation of this section must, before dismounting, indicate to the judges or patrol judge his or her desire to enter such claim or complaint and forthwith upon dismounting shall proceed to the telephone or judges' stand where and when such claim, objection, or complaint shall be immediately entered. The judges shall not cause the official sign to be displayed until such claim, objection, or complaint has been entered and considered.

(c) If any horse loses a piece of equipment during a race and that equipment bothers another horse or horses, it may be considered interference by the horse responsible for the lost equipment pursuant to 71 IAC 5-3-3(a)(19).

(d) In case of interference, collision, or violation of any of the restrictions in subsections (a), (b), and (c), the offending horse may be placed back one (1) or more positions in that heat or dash. In the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver shall be fined **or** suspended, or both. In the event a horse is set back under this subsection, it must be placed behind the horse with whom it interfered. An interference that occurs to a horse or horses not in contention that did not affect the outcome of a race to that horse or any other horse as it applies to purse money won may not be grounds for a disqualification. Although, the driver causing the interference may still be penalized.

(e) If there is any purse money for which horses have started but were unable to finish due to interference or an accident, or both, all unoffending horses who did not finish will share equally in such purse money.

(f) A driver shall not:

(1) fail to display competitive urging or cease driving while in contention in the home stretch;

(2) race in an inconsistent manner;

(3) drive in an unsatisfactory manner due to lack of effort;

(4) drive in an unsatisfactory manner due to carelessness; or

(5) drive in such a manner as to have the horse remain classified or eligible to the same or easier conditions.

(g) If the judges determine that any of the ~~above~~ actions **in subsection (f)** were such that they compromised the integrity of racing or were to aid or perpetrate a fraud, then the licensee may be summarily suspended pending a judges hearing.

(h) Anyone acting in concert with the driver to so effect the outcome of the race or races may be summarily suspended pending a judges hearing.

(i) A driver shall not fail to participate in the post parade at the prescribed time unless

excused by the judges.

(Indiana Horse Racing Commission; 71 IAC 7-3-7; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1161; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2913; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3130, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2108; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2749; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; 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; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Mar 30, 2016, 12:18 p.m.: 20160406-IR-071160138ERA; 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; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 15. 71 IAC 7-3-11 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-11 Improper conduct in a race

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 11. (a) Loud shouting or other improper conduct is forbidden in a race. ~~Unless otherwise provided in this rule, drivers shall keep both feet in the stirrups at all times while on the track and during a race.~~

(b) Drivers are not allowed to ~~lay~~ **lie** back in the sulky, and handholds are to be adjusted accordingly.

(c) Drivers ~~laying~~ **lying** back in the sulky taking racing room away from a trailing horse may be considered an act of interference.

(Indiana Horse Racing Commission; 71 IAC 7-3-11; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1918; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 16. 71 IAC 7-3-16 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-16 Breaking

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 16. (a) When any horse or horses break from their gait in trotting or pacing, their driver shall at once, where clearance exists, take such horse either to the inside or outside and pull it to its gait.

(b) The following shall be considered violations of subsection (a):

(1) Failure to properly attempt to pull a horse to its gait.

(2) Failure to take to the inside or outside where clearance exists.

(3) Failure to **continuously** lose ground ~~by the~~ **while on a break**.

(4) An extended break. **“An extended break” means a horse that is not on its proper gait for twenty-five (25) consecutive strides or more.**

(c) If there has been no failure on the part of the driver in complying with subsection (a), the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.

(d) The judges may set any horse back one (1) or more places if in their judgment any violations as established in subsection (b) or (c) have been committed.

(e) Any horse making a break, which causes interference with other contesting horses, shall be placed behind all horses interfered with unless the judges determine that a driver of a trailing horse did not exercise reasonable alertness in avoiding the situation.

(Indiana Horse Racing Commission; 71 IAC 7-3-16; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1163; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2410; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2537; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 17. 71 IAC 7-3-37 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-37 Passing lane

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 37. (a) The passing lane of the racetrack shall be at least seven (7) feet wide and not more than ten (10) feet wide. The passing lane shall begin $\frac{1}{8}$ th **one-eighth (1/8)** of a mile before the finish.

(b) The passing lane may only be used during the final $\frac{1}{8}$ th **one-eighth (1/8)** of the race.

(c) Drivers must have full clearance of the pylons when entering the passing lane.

(d) Any horse and driver who goes inside of one (1) or more pylons at the start of the passing lane may be placed if the judges determine the move gave said horse an advantage over contending horses.

(e) Any horse ~~which~~ **that** is driven into the passing lane but does not advance on contending horses may be placed if the judges determine that horse blocked the forward progress of a trailing horse ~~which~~ **that** is also using the passing lane.

(f) The lead horse **or any horse with a clear path in the stretch** may not use the passing lane.

(g) Any horse other than the lead horse may be driven into the passing lane in an attempt to pass another horse.

(Indiana Horse Racing Commission; 71 IAC 7-3-37; emergency rule filed Nov 2, 2016, 3:27 p.m.: 20161109-IR-0711160496ERA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 18. 71 IAC 7.5-1-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-1-2 Procedures

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. (a) Entries and nominations shall be made with the racing secretary and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of one (1) year.

(b) An entry shall be in the name of the horse's licensed owner and made by the owner, trainer, or a licensed designee of the owner or trainer.

(c) Races printed in the condition book shall have preference over substitute and extra races except for brought back Indiana extra races.

(d) An entry must be in writing, by telephone, or by facsimile machine to the racing secretary. The entry must be confirmed in writing should the stewards or the racing secretary so request.

(e) The person making an entry shall clearly designate the horse so entered.

(f) No horse may be entered in more than one (1) race (with the exception of stakes races) to be run on the same day on which pari-mutuel wagering is conducted.

(g) Any permitted medication or approved change of equipment must be declared at time of entry.

(h) At the draw, a jockey is limited to being named on one (1) horse in the body of a race, except in an entry defined in 71 IAC 1.5-1-34(2), and one (1) horse on the "also eligible list", if applicable. A jockey may not ride any horse that he or she was taken off of at the draw by ~~themselves~~ **the jockey** or ~~their~~ **his or her agent, without the approval of the stewards.**

(Indiana Horse Racing Commission; 71 IAC 7.5-1-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2865, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1919; emergency rule filed Aug 4, 2004, 11:10 a.m.: 27 IR 4037; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 19. 71 IAC 7.5-1-4 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-1-4 Coupled entries

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. (a) No more than two (2) horses having common ties through ownership or training, **including two (2) or more horses having ties through ownership or training or spouses**, may be entered in an overnight race, except in races to be divided. No owner may start two (2) or more horses in a race to the exclusion of another owner's single entry except in stakes or stakes trials. **For the purpose of this rule, spouses will be considered a single owner.** Preference for horses with the same trainer, but having no common ties of ownership, will be determined by the conditions of the race ~~and/or~~ **or preference date, or both**, and may exclude a single entry.

(b) A trainer may not train for another trainer licensed in the state of Indiana.

(Indiana Horse Racing Commission; 71 IAC 7.5-1-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2865, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3406; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2892; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2383; emergency rule filed Aug 21, 2003, 4:45 p.m.: 27 IR 205; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007)

[IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jul 5, 2012, 2:14 p.m.: 20120718-IR-071120402ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Jul 3, 2014, 11:57 a.m.: 20140709-IR-071140251ERA; emergency rule filed Aug 29, 2017, 3:21 p.m.: 20170906-IR-071170396ERA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 20. 71 IAC 7.5-1-8 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-1-8 Split or divided races
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 8. (a) In the event a race is ~~cancelled~~ **canceled** or declared off, the association may split any overnight race for which post positions have not been drawn.

(b) When an overnight race is split, forming two (2) or more separate races, the racing secretary shall give notice of not less than fifteen (15) minutes before such races are closed to grant time for making additional entries to the split races.

(c) Split races shall be considered a single race for the purpose of preference dates.

(Indiana Horse Racing Commission; 71 IAC 7.5-1-8; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2866, 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; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 21. 71 IAC 7.5-4-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-4-1 Requirements
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. (a) A horse ~~which~~ **that** has not started for a period of sixty (60) days or more prior to race day must have an official timed workout within the previous forty-five (45) days prior to race day. First time starters must have two (2) or more official timed workouts, and at least one (1) such workout must be from the starting gate. The workout must have occurred at a pari-mutuel track or commission recognized training facility. The association may impose more stringent workout requirements. All workouts are subject to the approval of the commission.

(b) A horse that has not made an official racing start in two (2) years or longer must have a work in front of a regulatory track veterinarian prior to being declared eligible to race in Indiana.

(Indiana Horse Racing Commission; 71 IAC 7.5-4-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2869, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2156; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA; emergency rule filed Mar 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 22. 71 IAC 7.5-4-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-4-2 Identification

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. (a) Unless otherwise prescribed by the stewards or the commission, the official lip tattoo must have been affixed to a horse's upper lip **or a microchip** or other identification method approved by the appropriate breed registry and the commission applied prior to its participation in workouts from the gate, schooling races, or workouts required for removal from the stewards' list, the starter's list, the veterinarian's list, or the bleeder/salix list.

(b) The trainer, exercise rider, or trainer's designee shall notify the clocker or ~~their~~ **the clocker's** assistants of the horse's name **and** the trainer's name, and identify the distance the horse is to be worked and the point on the track where the workout will start. Any licensee failing to fully cooperate with the clocker or ~~their~~ **the clocker's** assistants shall be reported to the stewards.

(Indiana Horse Racing Commission; 71 IAC 7.5-4-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2869, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3408; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2156; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 120; 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; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 23. 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 his **or her** designee, through the electronic registration system:

~~(i)~~(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;

~~(ii) upon claim, sale, or any other transfer of ownership and the foal certificate is not otherwise on file with the racing secretary, the previous owner shall present the foal certificate to the racing secretary within seventy-two (72) hours of the change of ownership so the ownership can be updated;~~

~~(iii)~~(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;

~~(iv)~~(C) the stewards may at any time require presentation of a horse's registration

certificate; and

~~(v)~~**(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 ~~is~~ **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) 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;
- (5) 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;
- (6) 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;
- (7) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;
- (8) its name appears on the starter's list, stewards' list, or veterinarian's list;
- (9) it is a first time starter and has not been approved to start by the starter;
- (10) it is owned in whole or in part by an undisclosed person or interest;
- (11) it lacks sufficient official published workouts or race past performances;
- (12) 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;
- (13) it is subject to a lien, which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (14) it is subject to a lease not filed with the stewards;
- (15) it is not in sound racing condition;
- (16) it has had a posterior digital neurectomy (heel denerving), which has not been approved by the official veterinarian;
- (17) it has been trachea tubed to artificially assist breathing;
- (18) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (19) it has impaired eyesight in both eyes;
- (20) it is barred or suspended in any recognized jurisdiction;
- (21) it does not meet the eligibility conditions of the race;
- (22) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (23) its owners, lessors, lessees, or trainer have not completed the licensing procedures required by the commission;
- (24) it is by an unknown sire or out of an unknown mare;
- (25) there is no negative test certificate for equine infectious anemia issued within the preceding twelve (12) months attached to its breed registration certificate;
- (26) 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;
- (27) if a thoroughbred, it has shoes (racing plates) which have toe grabs 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 racing surfaces;

(28) it has reached the age of twelve (12); or

(29) it is a maiden that has reached the age of six (6);

(30) whose the race date is within ten (10) days of having extracorporeal shock wave or radial pulse wave therapy; or

(31) upon claim, sale, or any transfer of ownership, if the foal certificate is not otherwise on file with the racing office, the previous owner shall present the foal certificate to the racing secretary within seventy-two (72) hours of the change of ownership so the ownership can be updated.

(b) The stewards may consider extenuating circumstances in determining ineligibility of a horse with respect to subsection (a)(1) and ~~subsection~~ (a)(2).

(c) A horse that has not made an official racing start in two (2) years or longer must have a work in front of a regulatory track veterinarian prior to being declared eligible to race in Indiana.

(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.: 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 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-IR-071120402ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)

SECTION 24. 71 IAC 8-1-4.2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-4.2 Threshold levels

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4.2. The official blood (serum or plasma) and urine samples may contain only the following therapeutic medications or their metabolites or analogues, and shall not exceed the threshold concentrations specified in this rule:

(1) The use of acepromazine shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of the metabolite, 2-(1-hydroxyethyl) promazine sulfoxide (HEPS), in urine.

(2) The use of albuterol shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of total albuterol (albuterol plus conjugates) in urine.

(3) The use of betamethasone shall be permitted under the following conditions: Not to exceed ten (10) picograms per milliliter of betamethasone in serum or plasma.

(4) The use of butorphanol shall be permitted under the following conditions: Not to

exceed three hundred (300) nanograms per milliliter of total (free and conjugated) butorphanol in urine or two (2) nanograms per milliliter of free butorphanol in serum or plasma.

(5) The use of clenbuterol shall be permitted under the following conditions: Not to exceed one hundred forty (140) picograms per milliliter clenbuterol in urine or the limit of detection (LOD) in serum or plasma.

(6) The use of cetirizine shall be permitted under the following conditions: Not to exceed six (6) nanograms per milliliter of serum or plasma.

(7) The use of cimetidine shall be permitted under the following conditions: Not to exceed four hundred (400) nanograms per ~~milliliter~~ milliliter of serum or plasma.

(8) The use of dantrolene shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of 5-hydroxydantrolene in serum or plasma.

(9) The use of detomidine shall be permitted under the following conditions: Not to exceed two (2) nanograms per milliliter of carboxydetomidine in urine or one (1) nanogram per ~~milliliter~~ milliliter of detomidine in serum or plasma.

(10) The use of dexamethasone shall be permitted under the following conditions: Not to exceed five (5) picograms per milliliter of dexamethasone in plasma or serum.

(11) The use of diclofenac shall be permitted under the following conditions: Not to exceed five (5) nanograms per milliliter of diclofenac in plasma or serum.

(12) The use of dimethylsulfoxide (DMSO) shall be permitted under the following conditions: Not to exceed ten (10) micrograms per milliliter of DMSO in serum or plasma.

(13) The use of firocoxib shall be permitted under the following conditions: Not to exceed twenty (20) nanograms per milliliter of firocoxib in serum or plasma.

(14) The use of glycopyrrolate shall be permitted under the following conditions: Not to exceed three (3) picograms per milliliter of glycopyrrolate in serum or plasma.

(15) The use of guaifenesin shall be permitted under the following conditions: Not to exceed twelve (12) nanograms per milliliter of serum or plasma.

(16) The use of isoflupredone shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of isoflupredone in serum or plasma.

(17) The use of lidocaine shall be permitted under the following conditions: Not to exceed twenty (20) picograms per milliliter of total 3-hydroxylidocaine (to include conjugates) in serum or plasma.

(18) The use of mepivacaine shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of total 3-hydroxymepivacaine in urine or the LOD of mepivacaine in serum or plasma.

(19) The use of methocarbamol shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of methocarbamol in serum or plasma.

(20) The use of methylprednisolone shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of methylprednisolone in serum or plasma.

(21) The use of omeprazole shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of omeprazole sulfide in ~~urine~~ **serum or plasma**.

(22) The use of prednisolone shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of prednisolone in serum or plasma.

(23) The use of procaine penicillin shall be permitted under the following conditions:

(A) Not to exceed twenty-five (25) nanograms per milliliter of procaine in serum

or plasma. ~~and~~

(B) Administration of procaine penicillin must be reported to the official veterinarian at the time of administration. ~~and~~

(C) Procaine penicillin must not be administered after the horse is entered to race. ~~and~~

(D) Mandatory surveillance of the horse must occur for the six (6) hours immediately preceding the race for which the horse is entered by association security at the owner's expense.

(24) The use of ranitidine shall be permitted under the following conditions: Not to exceed forty (40) nanograms per milliliter ~~of in~~ serum or plasma.

(25) The use of triamcinolone acetonide shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of triamcinolone acetonide in serum or plasma.

(26) The use of xylazine shall be permitted under the following conditions: Not to exceed two hundred (200) picograms per milliliter of xylazine in serum or plasma.

(Indiana Horse Racing Commission; 71 IAC 8-1-4.2; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Feb 8, 2012, 12:01 p.m.: 20120215-IR-071120072ERA; emergency rule filed Apr 3, 2013, 10:37 a.m.: 20130410-IR-071130133ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed May 7, 2014, 2:27 p.m.: 20140514-IR-071140143ERA, eff May 15, 2014; emergency rule filed Jul 3, 2014, 11:57 a.m.: 20140709-IR-071140251ERA; emergency rule filed Mar 17, 2017, 1:04 p.m.: 20170322-IR-071170167ERA; emergency rule filed Apr 18, 2017, 12:54 p.m.: 20170426-IR-071170215ERA)

SECTION 25. 71 IAC 8-3-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-3-5 Out of competition testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

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

(1) on an owner's or trainer's license application; ~~or~~

(2) ~~on~~ a stall application ~~or~~ nomination list; or

(3) on the horse sign-in sheet at any time during the meet; ~~or~~

~~(4) or~~ has raced at any Indiana race meet during the ~~calendar year~~. **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 ~~regulation rule~~ by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana, ~~pursuant to~~ **under** subsection (b) ~~below~~ provided that the owner of such an Indiana bred or sired horse provides such written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b). ~~below.~~

(b) If a horse to be tested is not covered under subsection (a), the executive director or

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

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

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives must arrive for the taking of blood, urine, or hair samples from an eligible horse as defined in subsection (a) or (b), only between the hours of 7:00 a.m. and noon, after announcing their presence at the premises where the horse 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 ~~and/or~~ **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 ~~and/or~~ **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, ~~and/or~~ **or** summary suspension. It is a defense to any action brought against an owner ~~and/or~~ **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 ~~and/or~~ **or** their representative or designee from complying with the time limits set forth in this

subsection. The owner ~~or~~ ~~and/or~~ ~~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, ~~and/or~~ ~~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). ~~and~~

(6) Cobalt in excess of the threshold provided in 71 IAC 8-1-9. In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.

(7) Any substance or method not otherwise referenced in this rule, which is present on Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances).

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

(9) The use of a prohibited method, as defined in Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), on an eligible horse, as defined in subsections (a) and (b) ~~above~~ is prohibited and is a violation of this rule.

(g) The trainer or owner ~~and/or~~ ~~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, ~~and/or~~ ~~or~~ otherwise penalize any trainer ~~and/or~~ ~~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. ~~and~~
- (3) Approved laboratory for split sample testing as chosen by the owner or trainer.

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

(i) 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. ~~and~~
- (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)

SECTION 26. 71 IAC 8.5-1-2.3 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-1-2.3 Other beta-agonist drugs

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2.3. Any horse that is the subject of a positive test report from a commission-approved equine drug testing laboratory for any beta-agonist drugs, other than clenbuterol and albuterol, with anabolic effects that are not currently Penalty Class A drugs, as provided in the most recent version of the ARCI Uniform Classification Guidelines for Foreign Substances and Recommended Penalties Model Rule, shall be placed immediately on the veterinarian's list as provided in 71 IAC 8.5-8-1.6.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-2.3)

SECTION 27. 71 IAC 8.5-1-4.2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-4.2 Threshold levels

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4.2. The official blood (serum or plasma), hair, and urine samples may contain only the following therapeutic medications **or** their metabolites or analogues, and shall not exceed the threshold concentrations specified in this rule:

- (1) The use of acepromazine shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of the metabolite, 2-(1-hydroxyethyl) promazine sulfoxide (HEPS), in urine.
- (2) The use of albuterol in thoroughbreds shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of total albuterol (albuterol plus conjugates) in urine. The use of albuterol in quarter horses is not permitted. The presence of albuterol shall not exceed the limit of detection (LOD) in blood (serum or plasma), urine, or hair.
- (3) The use of betamethasone shall be permitted under the following conditions: Not to exceed ten (10) picograms per milliliter of betamethasone in serum or plasma.
- (4) The use of butorphanol shall be permitted under the following conditions: Not to exceed three hundred (300) nanograms per milliliter of total (free and conjugated) butorphanol in urine or two (2) nanograms per milliliter of free butorphanol in serum or plasma.
- (5) The use of clenbuterol in thoroughbreds shall be permitted under the following conditions: Not to exceed one hundred forty (140) picograms per milliliter clenbuterol in urine or the limit of detection (LOD) in serum or plasma. The use of clenbuterol in quarter horses is not permitted. The presence of clenbuterol shall not exceed the limit of detection (LOD) in urine, serum, plasma, or hair.
- (6) The use of cetirizine shall be permitted under the following conditions: Not to exceed six (6) nanograms per milliliter of serum or plasma.
- (7) The use of cimetidine shall be permitted under the following conditions: Not to

- exceed four hundred (400) nanograms per milliliter of serum or plasma.
- (8) The use of dantrolene shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of 5-hydroxydantrolene in serum or plasma.
- (9) The use of detomidine shall be permitted under the following conditions: Not to exceed two (2) nanograms per milliliter of carboxydetomidine in urine or one (1) nanogram per milliliter detomidine in serum or plasma.
- (10) The use of dexamethasone shall be permitted under the following conditions: Not to exceed five (5) picograms per milliliter of dexamethasone in plasma or serum.
- (11) The use of diclofenac shall be permitted under the following conditions: Not to exceed five (5) nanograms per milliliter of diclofenac in plasma or serum.
- (12) The use of dimethylsulfoxide (DMSO) shall be permitted under the following conditions: Not to exceed ten (10) micrograms per milliliter of DMSO in serum or plasma.
- (13) The use of firocoxib shall be permitted under the following conditions: Not to exceed twenty (20) nanograms per milliliter of firocoxib in serum or plasma.
- (14) The use of glycopyrrolate shall be permitted under the following conditions: Not to exceed three (3) picograms per milliliter of glycopyrrolate in serum or plasma.
- (15) The use of guaifenesin shall be permitted under the following conditions: Not to exceed twelve (12) nanograms per milliliter of serum or plasma.
- (16) The use of isoflupredone shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of isoflupredone in serum or plasma.
- (17) The use of lidocaine shall be permitted under the following conditions: Not to exceed twenty (20) picograms per milliliter of total 3-hydroxylidocaine (to include conjugates) in serum or plasma.
- (18) The use of mepivacaine shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of total 3-hydroxymepivacaine in urine or the LOD of mepivacaine in serum or plasma.
- (19) The use of methocarbamol shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of methocarbamol in serum or plasma.
- (20) The use of methylprednisolone shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of methylprednisolone in serum or plasma.
- (21) The use of omeprazole shall be permitted under the following conditions: Not to exceed ten (10) nanograms per milliliter of omeprazole sulfide in ~~urine~~ **serum or plasma.**
- (22) The use of prednisolone shall be permitted under the following conditions: Not to exceed one (1) nanogram per milliliter of prednisolone in serum or plasma.
- (23) The use of procaine penicillin shall be permitted under the following conditions:
- (A) Not to exceed twenty-five (25) nanograms per milliliter of procaine in serum or plasma. ~~and~~
 - (B) Administration of procaine penicillin must be reported to the official veterinarian at the time of administration. ~~and~~
 - (C) Procaine penicillin must not be administered after the horse is entered to race. ~~and~~
 - (D) Mandatory surveillance of the horse must occur for the six (6) hours immediately preceding the race for which the horse is entered by association security at the owner's expense.
- (24) The use of ranitidine shall be permitted under the following conditions: Not to

exceed forty (40) nanograms per milliliter of ~~in~~ serum or plasma.

(25) The use of triamcinolone acetonide shall be permitted under the following conditions: Not to exceed one hundred (100) picograms per milliliter of triamcinolone acetonide in serum or plasma.

(26) The use of xylazine shall be permitted under the following conditions: Not to exceed two hundred (200) picograms per milliliter of xylazine in serum or plasma.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-4.2; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Feb 8, 2012, 12:01 p.m.: 20120215-IR-071120072ERA; emergency rule filed Apr 3, 2013, 10:37 a.m.: 20130410-IR-071130133ERA; emergency rule filed May 7, 2014, 2:27 p.m.: 20140514-IR-071140143ERA, eff May 15, 2014; emergency rule filed Jul 3, 2014, 11:57 a.m.: 20140709-IR-071140251ERA; emergency rule filed Mar 17, 2017, 1:04 p.m.: 20170322-IR-071170167ERA; emergency rule filed Apr 18, 2017, 12:54 p.m.: 20170426-IR-071170215ERA; emergency rule filed Feb 21, 2018, 2:58 p.m.: 20180228-IR-071180112ERA; emergency rule filed Mar 15, 2019, 2:42 p.m.: 20190320-IR-071190167ERA)

SECTION 28. 71 IAC 8.5-2-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-2-5 Out of competition testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

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

(1) on an owner's or trainer's license application; ~~or~~

(2) ~~on~~ a stall application ~~or~~ nomination list; or

(3) on the horse sign-in sheet at any time during the meet; ~~or~~

~~(4) or~~ has raced at any Indiana race meet during the ~~calendar year~~. **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 ~~regulation rule~~ by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana, ~~pursuant to~~ ~~under~~ subsection (b) ~~below~~ provided that the owner of such an Indiana bred or sired horse provides such written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b). ~~below.~~

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

this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or stewards may order any horse of a licensed trainer 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 must arrive for the taking of blood, urine, or hair samples from an eligible horse as defined in subsection (a) or (b), only between the hours of 7:00 a.m. and noon, after announcing their presence at the premises where the horse 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 ~~and/or~~ **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 ~~and/or~~ **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, ~~and/or~~ **or** summary suspension. It is a defense to any action brought against an owner ~~and/or~~ **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 ~~and/or~~ **or** their representative or designee from complying with the time limits set forth in this subsection. The owner **or** trainer ~~and/or~~ **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, ~~and/or~~ **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). ~~and~~

(6) Cobalt in excess of the threshold provided in 71 IAC 8.5-1-9. In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.

(7) 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 Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances).

(10) The presence in a horse 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) ~~above~~ is prohibited and is a violation of this rule.

(11) The use of a prohibited method, as defined in Version 8.5 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), on an eligible horse as defined in subsections (a) and (b) ~~above~~ is prohibited and is a violation of this rule.

(g) The trainer or owner ~~and/or~~ ~~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, ~~and/or~~ ~~or~~ otherwise penalize any trainer ~~and/or~~ ~~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. ~~and~~

(3) Approved laboratory for split sample testing as chosen by the owner or trainer.

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

(i) 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. ~~and~~

(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-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,

SECTION 29. 71 IAC 8.5-8-1.5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-8-1.5 Veterinarian's list for quarter horse **albuterol and clenbuterol** positive
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1.5. (a) The official veterinarian shall maintain a list of all quarter horses with ~~clenbuterol~~ **albuterol** in excess of the threshold provided in ~~71 IAC 8.5-1-4.2(5)~~ **71 IAC 8.5-1-4.2(2)**.

(b) A quarter horse shall not be removed from the veterinarian's list until a biological sample of hair tested by a commission approved laboratory determines ~~clenbuterol~~ **albuterol** is not in excess of the threshold limit provided in ~~71 IAC 8.5-1-4.2(5)~~ **71 IAC 8.5-1-4.2(2)**.

(c) The official veterinarian shall maintain a list of all quarter horses with clenbuterol in excess of the threshold provided in 71 IAC 8.5-1-4.2(5).

(d) A quarter horse shall not be removed from the veterinarian's list until a biological sample of hair tested by a commission approved laboratory determines clenbuterol is not in excess of the threshold limit provided in 71 IAC 8.5-1-4.2(5).

~~(e)~~ (e) Hair samples shall be collected as provided in 71 IAC 8.5-3-1 for collection procedures or 71 IAC 8.5-2-5 for out of competition testing.

~~(d)~~ (f) The trainer or owner requesting hair sample testing shall pay all costs.

~~(e)~~ (g) The trainer or owner requesting hair sample testing shall make full payment prior to hair sample collection.

~~(f)~~ (h) The quarter horse may be removed from the veterinarian's list once a commission approved laboratory determines ~~clenbuterol~~ **albuterol** in hair is below the threshold limit provided in ~~71 IAC 8.5-1-4.2(5)~~ **71 IAC 8.5-1-4.2(2)**.

(i) The quarter horse may be removed from the veterinarian's list once a commission approved laboratory determines clenbuterol in hair is below the threshold limit provided in 71 IAC 8.5-1-4.2(5).

~~(g)~~ (j) If the hair test results determine a quarter horse is above the threshold limit, the trainer or owner may request another hair sample test in accordance with this section at a later date.

(Indiana Horse Racing Commission; 71 IAC 8.5-8-1.5; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA)

SECTION 30. 71 IAC 8.5-8-1.6 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-8-1.6 Veterinarian's list for other beta-agonist positive
Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1.6. (a) The official veterinarian shall maintain a list of all horses with other beta-agonist positives as provided in 71 IAC 8.5-1-2.3.

(b) A horse shall not be removed from the veterinarian's list until a biological sample of hair tested by a commission approved laboratory determines there is no other beta-agonist exceeding the limit of detection (LOD).

(c) Hair samples shall be collected as provided in 71 IAC 8.5-3-1 for collection procedures or 71 IAC 8.5-2-5 for out of competition testing.

(d) The trainer or owner requesting hair sample testing shall pay all costs.

(e) The trainer or owner requesting hair sample testing shall make full payment prior to hair sample collection.

(f) The horse may be removed from the veterinarian's list once a commission approved laboratory determines the other beta-agonist in hair is below the limit provided in subsection (b).

(g) If the hair test results determine a horse is above the threshold limit, the trainer or owner may request another hair sample test in accordance with this section at a later date. (Indiana Horse Racing Commission; 71 IAC 8.5-8-1.6)

SECTION 31. 71 IAC 9-2.2-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 9-2.2-3 Application submission and reimbursement costs

Authority: IC 4-31-7.5-11

Affected: IC 4-31-7.5-13; IC 4-31-7.5-14

Sec. 3. (a) A secondary pari-mutuel organization applying for a license under this article must submit a complete application on a form prescribed by the commission that contains the following information:

(1) The applicant's legal name.

(2) The location of the applicant's principal office.

(3) The names, addresses, and dates of birth of all shareholders, directors, officers, and other persons owning or controlling an interest in the SPMO with the degree of ownership or type of interest shown. Corporations, partnerships, or other legal entities, which own or control a beneficial interest in the applicant, either directly or through other corporations or legal entities, shall similarly file with the application a list showing the names, addresses, and dates of birth of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the legal entities, with the degree of ownership or type of interest pertaining to the ownership or interest.

(4) If the applicant is a corporation ultimately owned by a not-for-profit entity without any shareholders, or is a publicly traded corporation, the information required in ~~paragraph (3) of this subsection~~ **subdivision (3)** shall be required from the directors of the membership organization, or the directors and officers of the publicly traded corporation, in lieu of the shareholders.

(5) A copy of the organizational documents of the applicant.

(6) The names of the racetracks the applicant, or its agent, has contracts or other agreements with that allow the applicant to provide advance deposit wagering.

(7) Financial information that demonstrates that the SPMO has the financial resources to operate advance deposit wagering and provides a detailed budget that shows anticipated revenue, expenditures, and cash flows by month, projected for the term of the license sought.

(8) Written evidence of the approval to conduct advance deposit wagering that the organization has received from the appropriate regulatory authority in each state where the secondary pari-mutuel organization is licensed.

(9) A copy of a proposed contract executed by the applicant and each permit holder to satisfy the requirements of ~~section 5 of this article~~; **section 6 of this rule.**

(10) A copy of the bond, irrevocable letter of credit, or other undertaking referenced in section 5 of this rule.

(11) A plan of operation including all standard operating procedures related to wagers,

wagering accounts, security of wagering systems, security of confidential information, **and** policies for ensuring no underage persons engage in wagering and account payouts.

(12) A detailed budget showing on a monthly basis anticipated revenue, expenditures, and cash flows, from the SPMO's operation during the initial license period.

(13) A proposed version of the advance deposit wagering terms and agreement to be provided to account holders.

(14) A nonrefundable application fee of five thousand dollars (\$5,000). ~~and~~

(15) Any other information required by the commission.

(b) The commission may retain professional services, conduct investigations, or request additional information from the applicant for a license as it deems appropriate in determining whether to grant a license to an SPMO.

(c) The commission may require an applicant to pay any costs incurred by the commission for background checks, investigation, and professional fees related to the review ~~and/or~~ **or** consideration, **or both**, of the license application that exceed five thousand dollars (\$5,000).

(Indiana Horse Racing Commission; 71 IAC 9-2.2-3; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA) NOTE: Agency cited as 71 IAC 9-2.1-3, which was renumbered by the Publisher as 71 IAC 9-2.2-3.

SECTION 32. 71 IAC 9-2.2-12 IS AMENDED TO READ AS FOLLOWS:

71 IAC 9-2.2-12 Enforcement and penalties

Authority: IC 4-31-7.5-11

Affected: IC 4-31-7.5; IC 4-31-13

Sec. 12. (a) Any violations of this ~~chapter rule~~ **rule** may result in disciplinary action as outlined in IC 4-31-13 and ~~71 IAC~~ **this title**.

(b) The commission or its designee may suspend or revoke a license issued to an SPMO, withdraw approval of a contract between a permit holder and a licensed SPMO, impose fines ~~and/or~~ **or** impose civil penalties, **or both**, if the licensed SPMO:

(1) violates any of the requirements of IC 4-31-7.5 or ~~these rules~~ **this article**;

(2) fails to provide a bond or irrevocable letter of credit as provided in ~~see. 5~~ **section 5** of this rule;

(3) fails to make payments in a timely manner as required by the contract with the permit holder ~~and/or~~ **or these rules this article, or both**;

(4) fails to comply with any conditions on the license imposed by the commission;

(5) has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level. This includes, but is not limited to, failure to make required payments to other state regulatory agencies;

(6) poses a threat to the effective regulation of wagering or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of wagering activities, as demonstrated through the prior activities, criminal record, reputation, habits, or associations;

(7) fails to provide at the office of the commission any information required under the commission's rules within the time required, or if no maximum time has been established respecting the particular kind of information by other rule, then within thirty (30) days after receiving a written request therefore from the commission or its staff;

(8) commits, or has committed, any other act that the executive director determines constitutes a sufficient reason in the public interest for denying, suspending, or revoking

licenses or approval of agreements.

(Indiana Horse Racing Commission; 71 IAC 9-2.2-12; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA) NOTE: Agency cited as 71 IAC 9-2.1-12, which was renumbered by the Publisher as 71 IAC 9-2.2-12.

SECTION 33. 71 IAC 9-2.2-13 IS AMENDED TO READ AS FOLLOWS:

71 IAC 9-2.2-13 Unlicensed secondary pari-mutuel organizations
Authority: IC 4-31-7.5-11
Affected: IC 4-31-7.5-16

Sec. 13. A secondary pari-mutuel organization that is not licensed under this ~~chapter~~ **rule** may not accept a wager from an individual whose physical location is within Indiana at the time the wager is made. *(Indiana Horse Racing Commission; 71 IAC 9-2.2-13; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA) NOTE: Agency cited as 71 IAC 9-2.1-13, which was renumbered by the Publisher as 71 IAC 9-2.2-13.*

SECTION 34. 71 IAC 9-2.2-14 IS AMENDED TO READ AS FOLLOWS:

71 IAC 9-2.2-14 Action by permit holder against unlicensed secondary pari-mutuel organization
Authority: IC 4-31-7.5-11
Affected: IC 4-31-7.5-19

Sec. 14. (a) A permit holder has a right of action against a secondary pari-mutuel organization that accepts a wager in violation of ~~section 7~~ **section 13** of this ~~article~~ **rule**.

(b) If the permit holder prevails in an action filed under this section, the permit holder is entitled to the following:

(1) An injunction to enjoin future violations of this ~~chapter~~ **rule**.

(2) Compensatory damages equal to any actual damage proven by the permit holder. If the permit holder does not prove actual damage, the permit holder is entitled to

presumptive damages of five hundred dollars (\$500) for each wager placed in violation of this ~~chapter~~ **rule**.

(3) The permit holder's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

(c) A secondary pari-mutuel organization that accepts a wager in violation of ~~section 7~~ **section 13** of this ~~article~~ **rule** submits to the jurisdiction of Indiana courts for purposes of this article. *(Indiana Horse Racing Commission; 71 IAC 9-2.2-14; emergency rule filed Aug 29, 2018, 11:12 a.m.: 20180905-IR-071180370ERA) NOTE: Agency cited as 71 IAC 9-2.1-14, which was renumbered by the Publisher as 71 IAC 9-2.2-14.*

SECTION 35. 71 IAC 10-3-20 IS AMENDED TO READ AS FOLLOWS:

71 IAC 10-3-20 Administrative complaints
Authority: IC 4-31-3-9
Affected: IC 4-31-13

Sec. 20. (a) If the commission determines that a person regulated under the Act has violated the Act or a rule or order adopted under the Act in a manner that constitutes a ground for

disciplinary action under the Act, the commission may assess an administrative penalty against that person as provided by this section.

(b) The commission delegates to the executive director the authority to prepare and issue administrative complaints pursuant to the Act. If, after examination of a possible violation and the facts relating to that possible violation, the executive director determines that a violation has occurred, the executive director shall issue an administrative complaint that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, the amount to be assessed, and any other proposed sanction, including suspension, or revocation. Furthermore, when the judges have issued a ruling that a violation has occurred, the executive director may issue an administrative complaint identifying the underlying ruling that serves as the basis for the administrative complaint, the fact that an administrative penalty is to be imposed, the additional amount to be assessed, and any other proposed sanction including additional suspension or revocation. The amount of the penalty may not exceed five thousand dollars (\$5,000) for each violation. Each day or occurrence that a violation continues may be considered a separate violation. In determining the administrative penalty, the executive director shall consider the seriousness of the violation.

(c) Not later than the tenth day after the date on which the executive director issues the administrative complaint, the executive director shall provide a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty. If possible, the executive director shall hand deliver the administrative complaint. If hand delivery is not possible, the executive director shall mail the administrative complaint to the person's last known address, as found in the commission's files, by regular mail and by certified mail, return receipt requested.

(d) Not later than the twentieth day after the date on which the executive director delivers or sends the administrative complaint, the person charged may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure to request a hearing or to remit the amount of the administrative penalty within the period prescribed by this subsection ~~results~~ **may result** in a waiver of ~~a~~ **the** right to a hearing on the administrative penalty as well as any right to judicial review. If the person charged requests a hearing, the hearing shall be conducted in the same manner as other hearings conducted by the commission pursuant to this article.

(e) If it is determined after the hearing that the person has committed the alleged violation, the administrative law judge shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty. If a party desires to appeal this order, they shall do so pursuant to the provisions of section 15 of this rule.

(f) Not later than the fifteenth day after the date on which the above order is received from the administrative law judge, the person charged shall pay the administrative penalty in full or exercise the right to appeal. If a person exercises a right of appeal, the amount of the penalty is not required to be paid until the fifteenth day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

(Indiana Horse Racing Commission; 71 IAC 10-3-20; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1208; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1507; errata filed Mar 23, 1995, 4:30 p.m.: 18 IR 2126; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA)

SECTION 36. 71 IAC 13-1-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 13-1-1 Registration of horsemen's associations

Authority: IC 4-31-3-9; IC 4-35-7-12

Affected: IC 4-31; IC 4-35

Sec. 1. (a) A horsemen's association must register with the commission annually in order to be eligible to receive monies from permit holders pursuant to the provisions of IC 4-35-7-12. Unless otherwise directed by the commission, and except as provided in subsection (c), a horsemen's association shall file its registration (accompanied by all supporting materials required by this article) with the commission not later than September 1 of the year preceding the calendar year for which the funds are to be paid. **One (1) electronic copy, and six (6) paper copies, of each application shall be provided.** Except as provided in subsection (c), the commission shall approve or deny a registration not later than December 31 of the year preceding the calendar year for which the funds are to be paid. The registration for an upcoming calendar year must be approved by the commission before a horsemen's association is entitled to receive any funds from permit holders as provided for by IC 4-35-7-12 and before permit holders may make payment to a particular horsemen's association. The registration of a horsemen's association for a calendar year becomes effective upon the approval of the commission, not upon the filing of the registration.

(b) The deadlines set forth in subsections (a) and (c) for the commission to approve or deny a registration shall not apply when more than one (1) horsemen's association registers to be eligible to receive the same source of funds specified in IC 4-35-7-12. In that event, the commission shall approve or deny the registrations as expeditiously as possible, but not later than February 28 of the calendar year in which the funds are to be paid.

(c) If, at the time a permit holder is required to make a payment of funds to a horsemen's association pursuant to IC 4-35-7-12, either:

(1) the commission has not approved the registration of a horsemen's association otherwise eligible to receive the permit holder's payment; or

(2) for any other reason, no horsemen's association is eligible to receive the permit holder's payment;

then the permit holder shall pay the funds required to be paid under IC 4-35-7-12 into one (1) or more interest bearing escrow accounts established and maintained by the permit holder solely for the purpose of holding and distributing those funds as may be directed by the commission. When a horsemen's association becomes eligible to receive payments from a permit holder pursuant to IC 4-35-7-12 and this article, the commission shall immediately direct the release of the escrowed funds and all interest earned on those funds to the eligible horsemen's association, and the permit holder shall thereafter make payments to that horsemen's association in the manner provided by IC 4-35-7-12 and this article.

(Indiana Horse Racing Commission; 71 IAC 13-1-1; emergency rule filed Jul 11, 2008, 2:13 p.m.: 20080723-IR-071080595ERA; emergency rule filed Aug 15, 2008, 9:17 a.m.: 20080827-IR-071080675ERA; emergency rule filed Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA; readopted filed Aug 28, 2019, 1:23 p.m.: 20190925-IR-071190319RFA)