

TITLE 71 INDIANA HORSE RACING COMMISSION

Emergency Rule LSA Document #19-___(E)

DIGEST

Amends 71 IAC 3-2-9 regarding Judge's list. Amends 71 IAC 6-1-1 regarding general provisions. Amends 71 IAC 6-1-3 regarding claiming procedure. Amends 71 IAC 6-3-1 regarding general provisions. Amends 71 IAC 6.5-1-3 regarding claim certificate. Amends 71 IAC 7-1-15 regarding horses ineligible to be entered. Adds 71 IAC 7-1-37.5 regarding nose rings. Amends 71 IAC 7-2-3.5 regarding the fair start pole. Amends 71 IAC 7-3-7 regarding driving rules. Amends 71 IAC 7-3-23 regarding wheel disks, mud fenders, and aprons. Amends 71 IAC 7.5-2-2 regarding scratches. Amends 71 IAC 7.5-6-1 regarding equipment. Amends 71 IAC 8-1-5.5 regarding bleeding from nostrils. Amends 71 IAC 8-3-5 regarding out of competition testing. Amends 71 IAC 8-4-3 regarding administrative procedures prior to split sample testing. Adds 71 IAC 8.5-1-2.2 regarding albuterol being prohibited in quarter horses. Amends 71 IAC 8.5-1-4.2 regarding threshold levels. Amends 71 IAC 8.5-1-5.5 regarding bleeding from nostrils. Amends 71 IAC 8.5-2-5 regarding out of competition testing. Amends 71 IAC 8.5-3-3 regarding administrative procedures prior to split sample testing. Amends 71 IAC 9-1-13 regarding pools dependent on betting interests. Effective upon filing with the Publisher.

SECTION 1. 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.
- (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 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 ~~thirty (30) days~~ **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 vet'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 vet 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)

SECTION 2. 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 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 ~~are valid on the day of issue~~ **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 ~~thirty (30)~~ **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.

(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)

SECTION 3. 71 IAC 6-1-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-1-3 Claiming procedure

Authority: IC 4-31-3-9

Sec. 3. (a) A person desiring to claim a horse must have the required amount of money on deposit with the horsemen's bookkeeper at the time the completed claim form is deposited.

(b) The claimant shall provide all information required on the claim form provided by the association.

(c) The claim form shall be completed and signed by the claimant or his or her authorized agent prior to placing it and the necessary transfer fees in an envelope provided for this purpose by the association and approved by the commission. The claimant shall seal the envelope and identify on the outside the date, race number, and track name only.

(d) The envelope shall be delivered to the designated area or licensed delegate at least thirty (30) minutes before post time of the race from which the claim is being made. That person shall certify on the outside of the envelope the time it was received.

(e) The claim shall be examined by the judges or their designee prior to the start of the race. The association's designee shall be prepared to state whether sufficient funds are on deposit in the amount equivalent to the specified claiming price and any other required fees and taxes. The judges shall have a public announcement made and information scrolled on the simulcast video stating there has been a claim made or, in the case of multiple claims, the number of claims made on a horse during the post parade. The successful claimant will be announced after the completion of the race.

(f) The judges shall disallow any claim made on a form or in a manner which fails to comply with all requirements of this rule.

(g) Documentation supporting all claims for horses, whether successful or unsuccessful, shall include details of the method of payment either by way of:

(1) a photostatic copy of the check presented;

(2) written detailed information to include:

(A) the name of the claimant;

(B) the bank;

(C) the branch;

(D) the account number; and

(E) the drawer of any checks; or

(3) details of any other method of payment.

This documentation is to be kept on file at race tracks for twelve (12) months and is to be produced to the commission for inspection at any time during the twelve (12) month period.

(h) When a claim has been submitted, it is irrevocable and is at the risk of the claimant.

(i) In the event more than one (1) claim is submitted for the same horse, the successful claimant shall be determined by lot by the judges or their designee, and all unsuccessful claims involved in the decision by lot shall, at that time, become null and void, notwithstanding any future disposition of such claim.

(j) Upon determining that a claim is valid, the judges shall notify the paddock judge of:

(1) the name of the horse claimed;

(2) the name of the claimant; and

(3) the name of the person to whom the horse is to be delivered.

Also, the judges shall cause a public announcement to be made.

(k) Every horse entered in a claiming race shall race for the account of the owner who declared it in the event, but title to a claimed horse shall be vested in the successful claimant from the time the horse is deemed to have started, and the successful claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound, or injured during or after the

race. A horse entered in a claiming race cannot be sold or transferred until the completion of the race.

(l) A horse entered in a claiming race cannot be scratched from a claiming race for the purpose of being sold privately.

(m) A post-race test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race sample is collected. The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation. The successful claimant/trainer shall have the right to measure the horse's hobbles and any other equipment that he or she deems necessary before the horse leaves the test barn. The claimant or his or her authorized designee shall be permitted access into the test barn. The equipment must remain on the claimed horse until the claimant or his or her designee has an opportunity to measure hobbles or any other equipment he or she deems necessary.

(n) Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended, together with the horse, until delivery is made.

(o) A claimed horse shall not:

(1) be eligible to start in any race in the name or interest of the owner of the horse at the time of entry for the race from which the horse was claimed;

(2) remain in or be returned to the same stable or to the care or management of the first owner or trainer; or

(3) be sold or transferred to anyone;

for a period of sixty (60) days unless reclaimed out of another claiming race.

(p) The claiming price shall be paid to the owner at the time of entry for the race from which the horse was claimed only when the successful claimant is not in pending status by the USTA, the judges are satisfied that the claim is valid, and the successful claimant is recognized as the owner of record.

(q) The judges, at the option of the claimant, shall rule a claim invalid if the horse has been found ineligible to the race from which it was claimed.

(r) Mares and fillies that are in foal are ineligible for claiming races. Upon receipt of the horse, if a claimant determines within forty-eight (48) hours that a claimed filly or mare is in foal, he or she may, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.

(s) If a claimant demonstrates that the sex of the horse is other than reported in the official racing program, he or she may, within forty-eight (48) hours of the claim, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed. The judge shall rule the claim of the returned horse invalid.

(t) If the post-race serum or plasma sample of the horse contains cobalt in excess of the threshold established in 71 IAC 8-1-9, the claimant will be notified of the test result and he or she may, within forty-eight (48) hours of notification, at his or her option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.

(u) When the judges rule that a claim is invalid and the horse is returned to the owner of the horse at the time of entry for the race in which the invalid claim was made:

(1) the amount of the claiming price and any other required fees and taxes shall be repaid to the claimant;

(2) any purse monies earned subsequent to the date of the claim and before the date on which the claim is ruled invalid shall be the property of the claimant; and

(3) the claimant shall be responsible for any reasonable costs incurred through the care, training, or racing of the horse while it was in his or her possession.

(v) A claimed horse may not race at any location except for the race track where it was claimed until the earlier of sixty (60) days after the date it was claimed or the end of the meeting at which it was claimed, except with written permission of the judges for stakes races.

(w) Notwithstanding the provisions of subsection (v), a claimed horse shall be allowed to compete in any stake, or early and late closer, if it is listed as being paid prior to the claim.

(x) A horse claimed in another state may not race at a track under the jurisdiction of the commission until the earlier of sixty (60) days after the date it was claimed or the end of the meeting at which it was claimed, except with written permission of the judges for stakes races.

(Indiana Horse Racing Commission; 71 IAC 6-1-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1149; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2907; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2400; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2101; 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 1915; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2747; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2215; 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 Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA; emergency rule filed Sep 15, 2014, 12:44 p.m.: 20140924-IR-071140352ERA, eff Sep 30, 2014; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA; emergency rule filed Jun 29, 2018, 1:04 p.m.: 20180704-IR-071180278ERA)

SECTION 4. 71 IAC 6-3-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 6-3-1 General provisions

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) For the purpose of this rule, overnight events shall include:

- (1) conditioned;
- (2) claiming;
- (3) preferred;
- (4) invitational;
- (5) handicap;
- (6) open;
- (7) free-for-all;
- (8) schooling; or
- (9) matinee races;

or a combination thereof.

(b) At extended meetings, condition sheets must be available to participants at least twenty-four (24) hours prior to closing declarations to any race program contained therein. At other meetings, conditions must be posted and available to participants at least eighteen (18) hours prior to closing declarations.

(c) A fair and reasonable racing opportunity shall be afforded both trotters and pacers in reasonable proportion from those available and qualified to race.

(d) Substitute races may be provided for each race program and shall be so designated in condition books sheets. A substitute race may be used when a regularly scheduled race fails to fill.

(e) Regularly scheduled races or substitute races may be divided where necessary to fill a program of racing or may be divided and carried over to a subsequent racing program subject to the following:

(1) No such divisions shall be used in the place of regularly scheduled races which fill.

(2) Where races are divided in order to fill a program, starters for each division must be determined by lot after preference has been applied unless the conditions provide for divisions based upon age, performance, earnings, or sex.

(3) Where necessary to fill a card, not more than one (1) race per day may be divided into not more than two (2) divisions after preference has been applied. The divisions may be selected by the racing secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings, or sex.

~~(f) Amateur races shall not be used as pari-mutuel betting events.~~

(Indiana Horse Racing Commission; 71 IAC 6-3-1; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2908; 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 Nov 29, 2011, 12:52 p.m.: 20111228-IR-071100776RFA; readopted filed Oct 13, 2017, 2:49 p.m.: 20171108-IR-071170171RFA)

SECTION 5. 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) 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;

~~(3)~~ **(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

~~(4)~~ **(5)** has at a minimum, the amount of the claim and applicable taxes on deposit with the horsemen's bookkeeper.

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

(f) 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)

SECTION 6. 71 IAC 7-1-15 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-1-15 Horses ineligible to be entered

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 15. (a) An owner or trainer shall not enter or start a horse that:

- (1) has not been qualified or is on the judge's or vet's list;
- (2) is wearing a trachea tube or has a hole in its throat for a trachea tube;
- (3) has had any surgical neurectomy (been denerved) not in accordance with 71 IAC 5-3-3;
- (4) has impaired eyesight in both eyes; or
- (5) is fifteen (15) years of age or older.
- (6) whose race date is within ten (10) days of having extracorporeal shock wave or radial pulse wave therapy.

(b) A horse drawn into a race that is on the judge's or vet's list shall be scratched.

(c) A horse shall not start at an Indiana pari-mutuel track in a wagering or nonwagering event having not raced in the last ~~thirty (30) days~~ **forty-five (45) days, race date to race date.**

(Indiana Horse Racing Commission; 71 IAC 7-1-15; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1153; 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 Jan 21, 2004, 2:30 p.m.: 27 IR 1917; 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 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)

SECTION 7. 71 IAC 7-1-37.5 IS ADDED TO READ AS FOLLOWS:

71 IAC 7-1-37.5 Nose rings

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 37.5 No horse shall be allowed to race with its nostrils tied open with either piercings or rings.

SECTION 8. 71 IAC 7-2-3.5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-2-3.5 Fair start pole

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3.5. (a) There shall be a pole erected 280 feet in front of the starting pole.

(b) The pole must:

(1) have written on it "FAIR START POLE"; and (2) be approved by the executive director or judges.

(c) If a horse does not reach the fair start pole before the field is released at the start, the judges shall display the "inquiry" sign immediately.

(d) Any horse not reaching the fair start pole before the starter releases the horses at the starting pole shall be declared a nonstarter for wagering ~~purses~~ **purposes**. All monies wagered on that horse shall be refunded.

(e) All drivers must make a reasonable effort to reach the fair start pole.

(f) Any horse which fails to reach the fair start pole more than one (1) time in a calendar year may be placed on the qualifying list.

(Indiana Horse Racing Commission; 71 IAC 7-2-3.5; emergency rule filed Jul 23, 2015, 3:19 p.m.: 20150729-IR071150238ERA; emergency rule filed Apr 30, 2018, 3:54 p.m.: 20180502-IR-071180203ERA)

SECTION 9. 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, neither the driver of the first horse or 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 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.

(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).

~~(e)~~(d) In case of interference, collision, or violation of any of the restrictions in subsections (a) and (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, 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(s) 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.

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

~~(e)~~(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.

~~(f)~~(g) If the judges determine that any of the above actions 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.

~~(g)~~(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.

(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)

SECTION 10. 71 IAC 7-3-23 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7-3-23 Wheel disk; mud fenders **and aprons**

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 23. It shall be the responsibility of the owner, trainer, or driver to provide every sulky used in a race with wheel disks on the inside and outside of the wheel of a type approved by the commission. In his or her discretion, the presiding judge may order the use of mud ~~guards~~ **fenders and mud aprons** which shall be provided by the owners, trainers, or drivers.

(Indiana Horse Racing Commission; 71 IAC 7-3-23; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1164; 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 Mar 17, 2017, 1:04 p.m.: 20170322-IR-071170167ERA)

SECTION 11. 71 IAC 7.5-2-2 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-2-2 Scratches

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. (a) A scratch is the act of withdrawing an entered horse from a contest after the closing of entries.

(b) The scratch of a horse after closing shall be made by the owner, trainer, or their licensed designee with permission from the stewards.

(c) A horse may be scratched from a stakes race for any reason at any time up until forty-five (45) minutes prior to that race.

(d) No horse may be scratched from an overnight race without approval of the stewards.

(e) In overnight races, ~~horse~~ **horses** that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ~~ten (10)~~ **eight (8)** betting interests in the daily double or exotic wagering races, or horses representing more than eight (8) betting interests in any other overnight race, remain in after horses with physical excuses have been

scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(f) Entry of any horse which has been scratched or excused from starting by the stewards because of a physical disability or sickness shall not be accepted until the expiration of a minimum of five (5) calendar days after such horse was scratched or excused and the horse has been removed from the veterinarian's list by the official veterinarian.

(Indiana Horse Racing Commission; 71 IAC 7.5-2-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2867, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3407; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2892; errata filed Jun 20, 1996, 9:50 a.m.: 19 IR 3114; 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 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

SECTION 12. 71 IAC 7.5-6-1 IS AMENDED TO READ AS FOLLOWS:

71 IAC 7.5-6-1 Equipment

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) All riding crops are subject to inspection and approval by the stewards and the clerk of scales.

(1) Riding crops shall have shaft and flap and will be allowed in flat racing including training, only as follows:

(A) maximum weight of eight (8) ounces;

(B) maximum length of thirty (30) inches;

(C) shaft maximum diameter of the shaft of one-half (1/2) inch; and

(D) shaft contact area must be smooth, with no protrusion or raised surface and covered by shock absorbing material that gives a compression factor of at least one-quarter (1/4) millimeter throughout its circumference.

(2) The flap is the only allowable attachment to the shaft and must meet these specifications:

(A) length beyond the end of the shaft a maximum of one (1) inch;

(B) width a minimum of eight-tenths (0.8) inch and a maximum of one and six-tenths (1.6) inches;

(C) no reinforcements or additions beyond the end of the shaft;

(D) no binding within seven (7) inches of the end of the shaft; and

(E) shock absorbing characteristics similar to those of the contact area of the shaft.

(b) No bridle shall exceed two (2) pounds.

(c) A horse's tongue may be tied down with clean bandages, gauze, or a tongue strap.

(d) No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter **and the stewards. Any request for such a change must be stated at entry. Blinkers and cheek pieces may not be used at the same time.**

(e) The use of Gelocast and/or like materials as a racing bandage or the use of Gelocast and/or like materials in conjunction with traditional materials to form a racing bandage is prohibited.

(f) Any nontraditional material incorporated into a racing bandage must be approved by the official veterinarian, or his/her designee.

~~(g) Blinker cups must be a minimum of one and one-half (1 1/2) inches.~~

(Indiana Horse Racing Commission; 71 IAC 7.5-6-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2870, eff Jul 1, 1995; emergency rule filed Jun 22, 1998, 5:13 p.m.: 21 IR 4234; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2781; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2384; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1919; 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 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA)

SECTION 13. 71 IAC 8-1-5.5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-1-5.5 Bleeding from nostrils

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 5.5. A horse known to have bled from its nostrils for the first time within a three hundred sixty-five (365) day period during a race or workout may not be entered or raced during the next ~~ten (10)~~ **fourteen (14)** days without prior approval for racing by the official veterinarian or his/her designee. If a horse bleeds from its nostrils a second time within a three hundred sixty-five (365) day period, the horse shall be placed on the veterinarian's list and prohibited from racing for thirty (30) days. If a horse bleeds from its nostrils a third time within a three hundred sixty-five (365) day period, the horse shall be placed on the veterinarian's list and prohibited from racing for at least ~~thirty (30) days~~ **one hundred eighty (180) days**. A horse that bleeds from its nostrils, but upon endoscopic examination shows no sign of pulmonary hemorrhage, shall not be subject to the restrictions imposed by this section. The horse may be removed from the veterinarian's list by the official veterinarian after a satisfactory workout. If a horse bleeds from its nostrils a fourth time, the horse is prohibited from racing in Indiana.

(Indiana Horse Racing Commission; 71 IAC 8-1-5.5; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2413; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Mar 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Feb 21, 2018, 2:58 p.m.: 20180228-IR-071180112ERA)

SECTION 14. 71 IAC 8-3-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8-3-5 Out of competition testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

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

owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

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

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

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

(c) The executive director or judges may order any horse of a licensed trainer **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(s) to be tested is (are) located and showing their credentials to collect samples from the horse(s) selected for testing for prohibited substances, practices, and procedures as

specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse(s). If neither is available, the collection will be deferred until the trainer and/or owner, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner and/or trainer of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, and/or summary suspension. It is a defense to any action brought against an owner and/or trainer for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner, trainer, and/or their representative or designee from complying with the time limits set forth in this subsection. The owner, trainer, and/or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, **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 cells that have the capacity to enhance athletic performance or produce analgesia.
- (3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.
- (4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.
- (5) AAS (androgenic-anabolic steroids) other than endogenous concentrations of the naturally occurring substances as defined in 71 IAC 8-1-8 or AAS in a horse placed on the veterinarian's list in accordance with 71 IAC 8-1-8(f); and
- (6) Cobalt in excess of the threshold provided in 71 IAC 8-1-9. In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.
- (7) 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).**

~~(7)~~**(8)** The presence in a horse of any substance at anytime listed in subdivision (1), (2), (3), (4), ~~or (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 his/her designees shall cooperate with the official veterinarian or any licensed veterinarian or licensed veterinary technician authorized by the commission or any commission employee by:

- (1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and
- (2) providing a stall or safe location to collect the samples.

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

(h) The collection of blood 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.

(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)

SECTION 15. 71 IAC 8-4-3 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 4-31-3-9

Affected: IC 4-31-12

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

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

(1) The commission.

(2) The primary laboratory.

Laboratories providing split sample testing shall be ISO 17025 accredited unless otherwise approved by the commission. The request must be in writing, include the laboratory selection, and must be delivered to the judges not later than ~~ninety-six (96)~~ **seventy two (72)** hours after the trainer has received notice of a positive test result. Failure to request testing of a split sample and provide all necessary information within ~~ninety-six (96)~~ **seventy two (72)** hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained applicable list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

(c) The trainer or owner must identify a preferred split lab, subject to subsection

(b), within seventy two (72) hours of notice of a positive test result.

(d) The trainer or owner must provide payment for the requested split sample test at the time the split lab is selected.

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

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

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

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

~~(i)~~ **(i)** The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, flunixin, ketoprofen, furosemide, or as permitted in 71 IAC 8-1-4.2 and 71 IAC 8-1-9, is sufficient for a finding of a positive test.

(Indiana Horse Racing Commission; 71 IAC 8-4-3; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1173; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2916; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1504; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:05 p.m.: 21 IR 4231; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jul 23, 2007, 9:16 a.m.: 20070808-IR-071070461ERA, eff Jul 18, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: 20070829-IR-071070461ACA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA; emergency rule filed Apr 17, 2015, 3:15 p.m.: 20150422-IR-071150105ERA)

SECTION 16. 71 IAC 8.5-1-2.2 IS ADDED TO READ AS FOLLOWS:

71 IAC 8.5-1-2.2 Albuterol prohibited in quarter horses

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2.2. (a) No quarter horse participating in a race shall carry in its body albuterol in excess of the threshold provided in section 4.2(2) of this rule. A finding by the chemist or commission designee that albuterol in excess of the threshold is present in the test sample shall be prima facie evidence that albuterol was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the trainer and his or her agents responsible for the care or custody of the horse have been negligent in the handling or care of the horse.

(b) Upon a finding of a violation of this section, whether by pre-race testing or post-race testing, the owners or lessees of the horse from which the specimen was obtained shall forfeit any purse money and any trophy or award. If the purse money, trophy, or award is associated with a qualifying race, a positive test for albuterol shall render the horse ineligible for any subsequent related race.

(c) 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.

SECTION 17. 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, 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.
- (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 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)

SECTION 18. 71 IAC 8.5-1-5.5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-1-5.5 Bleeding from nostrils

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 5.5. A horse known to have bled from its nostrils for the first time within a three hundred sixty-five (365) day period during a race or workout may not be entered or raced during the next ~~ten (10)~~ **fourteen (14)** days without prior approval for racing by the official veterinarian or his/her designee. If a horse bleeds from its nostrils a second time within a three hundred sixty-five (365) day period, the horse shall be placed on the veterinarian's list and prohibited from racing for thirty (30) days. If a horse bleeds from its nostrils a third time within a three hundred sixty-five (365) day period, the horse shall be placed on the veterinarian's list and prohibited from racing for at least ~~thirty (30)~~ **one hundred eighty (180)** days. A horse that bleeds from its nostrils, but upon endoscopic examination shows no sign of pulmonary hemorrhage, shall not be subject to the restrictions imposed by this section. The horse may be removed from the veterinarian's list by the official veterinarian after a satisfactory workout. If a horse bleeds from its nostrils a fourth time, the horse is prohibited from racing in Indiana.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-5.5; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2421; 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 3, 2011, 11:50 a.m.: 20110309-IR-071110100ERA; readopted filed Oct 13, 2017, 2:49 p.m.: 20171108-IR-071170171RFA; emergency rule filed Feb 21, 2018, 2:58 p.m.: 20180228-IR-071180112ERA)

SECTION 19. 71 IAC 8.5-2-5 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-2-5 Out of competition testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

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

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

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

(b) If a horse selected to be tested is not covered under subsection (a), the executive director or stewards may nevertheless test any such horse as eligible to race in Indiana for

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

(c) The executive director or stewards may order any horse of a licensed trainer **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(s) to be tested is (are) located and showing their credentials to collect samples from the horse(s) selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse(s). If neither is available, the collection will be deferred until the trainer and/or owner, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner and/or trainer of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, and/or summary suspension. It is a defense to any action brought against an owner and/or trainer for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner, trainer, and/or their representative or designee from complying with the time limits set forth in this subsection. The owner, trainer,

and/or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, **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 cells that have the capacity to enhance athletic performance or produce analgesia.
- (3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.
- (4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.
- (5) AAS (androgenic-anabolic steroids) other than endogenous concentrations of the naturally occurring substances as defined in 71 IAC 8.5-1-8 or AAS in a horse placed on the veterinarian's list in accordance with 71 IAC 8.5-1-8(f); and
- (6) Cobalt in excess of the threshold provided in 71 IAC 8.5-1-9. In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.
- (7) 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).**

~~(8)~~**(10) The presence in a horse of any substance at any time listed in subdivision (1), (2), (3), (4), ~~or~~ (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 his/her designees shall cooperate with the official veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, or any commission employee by:

- (1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and
- (2) providing a stall or safe location to collect the samples.

The executive director or stewards may summarily suspend, exclude, and/or otherwise penalize any trainer and/or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or

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

(h) The collection of blood 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.

(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)

SECTION 20. 71 IAC 8.5-3-3 IS AMENDED TO READ AS FOLLOWS:

71 IAC 8.5-3-3 Administrative procedures prior to split sample testing
Authority: IC 4-31-3-9
Affected: IC 4-31-12

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

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

- (1) The commission.
- (2) The primary laboratory.

Laboratories providing split sample testing shall be ISO 17025 accredited unless otherwise approved by the commission. The request must be in writing, include the laboratory selection, and must be delivered to the stewards not later than ~~ninety-six (96)~~ **seventy-two (72)** hours after the trainer has received notice of a positive test result. Failure to request testing of a split sample and provide all necessary information within ~~ninety-six (96)~~ **seventy-two (72)** hours shall constitute a waiver of the right. The split sample laboratory shall be contacted by a representative of the commission to request acceptance of a split sample. The trainer or owner may choose any laboratory on the commission maintained applicable list to test the sample. However, the commission or executive director may limit the choice of laboratory for the detection of specific drugs.

(c) The trainer or owner must identify a preferred split lab, subject to subsection (b), within seventy-two (72) hours of notice of a positive test result.

(d) The trainer or owner must provide payment for the requested split sample test at the time the split lab is selected.

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

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

~~(e)~~(g) The split sample laboratory may require the owner or trainer of a horse who submits a specimen for testing to execute a hold harmless agreement for the split sample

laboratory and an agreement that the results of the split sample laboratory can be introduced as evidence in any hearing. The agreements shall remain in the hands of the stewards of the state in which the positive was reported.

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

~~(g)~~**(i)** The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, flunixin, ketoprofen, furosemide, or as permitted in 71 IAC 8.5-1-4.2 and 71 IAC 8.5-1-9, is sufficient for a finding of a positive test.

(Indiana Horse Racing Commission; 71 IAC 8.5-3-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2883, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2157; emergency rule filed Jun 22, 1998, 5:08 p.m.: 21 IR 4232; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jul 23, 2007, 9:16 a.m.: 20070808-IR-071070461ERA, eff Jul 18, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: 20070829-IR-071070461ACA; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; emergency rule filed Apr 5, 2013, 3:50 p.m.: 20130410-IR-071130135ERA; emergency rule filed Apr 17, 2015, 3:15 p.m.: 20150422-IR-071150105ERA)

SECTION 21. 71 IAC 9-1-13 IS AMENDED TO READ AS FOLLOWS:

71 IAC 9-1-13 Pools dependent on betting interests

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 13. (a) Unless the commission otherwise provides, one-half (½) hour prior to post time for the first race, the association:

- (1) may offer win, place, and show wagering on all contests with six (6) or more betting interests;
- (2) may be allowed to prohibit show wagering on any contest with five (5) or fewer betting interests scheduled to start;
- (3) may be allowed to prohibit place wagering on any contest with four (4) or fewer betting interests scheduled to start;
- (4) may be allowed to prohibit quinella wagering on any contest with three (3) or fewer betting interests scheduled to start;
- (5) may be allowed to prohibit quinella double wagering on any contests with three (3) or fewer betting interests scheduled to start;
- (6) may be allowed to prohibit exacta wagering on any contest with three (3) or fewer betting interests scheduled to start;
- (7) shall prohibit trifecta wagering on any contest with ~~five (5)~~ **four (4)** or fewer betting interests scheduled to start;
- (8) may be allowed to prohibit twin quinella wagering on any contests with three (3) or fewer betting interests scheduled to start;
- (9) shall prohibit twin trifecta wagering on any contests with ~~five (5)~~ **four (4)** or fewer betting interests scheduled to start;

- (10) shall prohibit superfecta wagering on any contest with ~~six (6)~~ **five (5)** or fewer betting interests to start;
- (11) shall prohibit pentafecta wagering on any contest with ~~seven (7)~~ **six (6)** or fewer betting interests; and
- (12) may be allowed to prohibit odd-even wagering on any contest with four (4) or fewer betting interests.

(b) Notwithstanding subsection (a), the timing of advance performance wagering shall be governed by ~~71 IAC 9-1-5~~. **section 5 of this rule.**

(Indiana Horse Racing Commission; 71 IAC 9-1-13; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1180; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2082; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2160; emergency rule filed Mar 18, 1998, 1:40 p.m.: 21 IR 3022; 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; 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)