

ARTICLE 8.5. FLAT RACING; HUMAN AND EQUINE HEALTH

Rule 1. Equine Health; Medication Rules

71 IAC 8.5-1-1 Medication

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. (a) No horse participating in a race or entered in a race shall carry in its body any foreign substance as defined in 71 IAC 1.5, except as provided for in this rule.

(b) No substance, foreign or otherwise, shall be administered to a horse entered to race by:

- (1) injection;
- (2) jugging;
- (3) oral administration;
- (4) tube;
- (5) rectal infusion or suppository;
- (6) inhalation; or
- (7) any other means;

within twenty-four (24) hours prior to the scheduled post time for the first race except furosemide as provided for in this rule. The prohibitions in this section include, but are not limited to, injection or jugging of vitamins, electrolyte solutions, and amino acid solutions. The prohibition also includes, but is not limited to, the administration of breathing compounds for oral and nasal dosing, such as Traileze, Vapol, Vicks vapor-rub, wind-aid, exhale ease, or containing methylsalicylate, camphor, or potassium iodide.

(c) Substances or metabolites thereof which are contained in equine feed or feed supplements that do not contain pharmacodynamic or chemotherapeutic agents are not considered foreign substances if consumed in the course of normal dietary intake (eating and drinking).

(d) The prohibition in subsection (b) notwithstanding, the use of nebulizers are permitted on an entered horse within twenty-four (24) hours of the scheduled post time for the horse's race until the horse's arrival in the paddock provided their use is restricted to water and saline solutions only.

(e) Topical dressings such as leg paints, liniments, ointments, salves, hoof dressings, and antiseptics, which do not contain anesthetics or a pharmacodynamic or a chemotherapeutic agent, may be administered at any time prior to a horse's arrival in the paddock. Products containing "caine" derivatives or dimethylsulfoxide (DMSO) are foreign substances and are prohibited. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3413; errata filed Mar 5, 1998, 1:46 p.m.: 21 IR 2392; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2419; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2385; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2223; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-1-2 Foreign substances prohibited

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2. (a) No horse participating in a race shall carry in its body any foreign substance except as provided by these rules. A finding by the chemist or commission designee that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance 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, including test results or an overage of phenylbutazone, flunixin, ketoprofen, or furosemide in violation of these rules, the owners or lessees of the horse from which the specimen was obtained shall forfeit any purse money and any trophy or award. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2893; 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*)

71 IAC 8.5-1-3 Foreign substances allowed

Authority: IC 4-31-3-9
 Affected: IC 4-31-12

Sec. 3. Phenylbutazone, flunixin, ketoprofen, and furosemide, when used in accordance with the test levels and guidelines set forth in sections 4.1 and 5 of this rule, are permitted foreign substances. Vitamin B1 and calcium when administered in accordance with commission approved policy are permitted foreign substances for race day administration. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2420; 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; 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)*)

71 IAC 8.5-1-4 Phenylbutazone as a permitted foreign substance (Repealed)

Sec. 4. (*Repealed by Indiana Horse Racing Commission; emergency rule filed Jul 28, 2006, 11:17 a.m.: 20060809-IR-071060278ERA, eff Aug 1, 2006*)

71 IAC 8.5-1-4.1 Nonsteroidal anti-inflammatory drugs (NSAIDs)

Authority: IC 4-31-3-9
 Affected: IC 4-31-12

Sec. 4.1. (a) The use of one (1) of three (3) approved NSAIDs shall be permitted under the following conditions:

(1) Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at the recommended labeled dose at least twenty-four (24) hours before the post time for the race in which the horse is entered:

- (A) Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter.
- (B) Flunixin – 20 nanograms per milliliter.
- (C) Ketoprofen – 10 nanograms per milliliter.

(b) These or any other NSAID are prohibited to be administered within the twenty-four (24) hours before post time for the race in which the horse is entered.

(c) The presence of more than one (1) of the three (3) approved NSAIDs, with the exception of phenylbutazone in a concentration below one (1) microgram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one (1) of the approved NSAIDs shall be discontinued at least forty-eight (48) hours before the post time for the race in which the horse is entered. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-4.1; emergency rule filed Jul 28, 2006, 11:22 a.m.: 20060816-IR-071060279ERA, eff Sep 1, 2006; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-1-5 Furosemide as a permitted foreign substance

Authority: IC 4-31-3-9
 Affected: IC 4-31-12

Sec. 5. (a) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

- (1) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the official veterinarian or his/her designee, using the prescribed form, that they wish the horse to be put on the Furosemide List.
- (2) The form must be received by the official veterinarian or his/her designee by the proper time deadlines so as to ensure public notification.

- (3) A horse placed on the official Furosemide List must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or his/her designee, on the proper form, no later than the time of entry.
- (4) After a horse has been removed from the Furosemide List, the horse may not be placed back on the list for a period of sixty (60) calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide List a second time in a three hundred sixty-five (365) day period, the horse may not be placed back on the list for a period of ninety (90) calendar days.
- (5) Furosemide shall only be administered on association grounds.
- (6) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication, which may then be submitted for testing.
- (7) Time of treatment. Horses qualified for medication and so indicated on the official bleeder list must be treated at least four (4) hours prior to post time.
- (8) Medication administration. Bleeder medication shall be administered by a veterinarian licensed by the commission at an intravenous dose level not to exceed five hundred (500) milligrams and no less than one hundred fifty (150) milligrams. The executive director or stewards may designate certain licensed official veterinarians, racing veterinarians, and/or practicing veterinarians to administer furosemide under this rule. Such designation may be determined daily, weekly, or for any other appropriate time period. Administration of furosemide shall take place in the test barn or a specific location otherwise designated by the commission. An association employee shall be present and observe the drawing of furosemide into a syringe. The administering veterinarian shall provide a factory sealed bottle of furosemide from which the draws shall be made. The association shall establish track rules for furosemide administrations that are consistent with these regulations.
- (9) Out-of-state horses. A bleeder horse shipped into the state from another jurisdiction may be automatically eligible to receive furosemide provided that the jurisdiction from which it was shipped qualified it as a bleeder using criteria satisfactory to this state. The Daily Racing Form, Equibase, the breed registry foal certificate, or bleeder certificate may be utilized in determining a horse's eligibility to receive furosemide.
- (10) The test level of furosemide under this rule shall not be in excess of one hundred (100) nanograms per milliliter of plasma and shall not be below a urine specific gravity of one and ten one-thousandths (1.010). If an insufficient volume of urine is obtained, a positive test shall be based upon quantitative testing performed on blood plasma only. Split sample testing shall be quantitative and be performed on blood plasma only.

(Indiana Horse Racing Commission; 71 IAC 8.5-1-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3413; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2893; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2420; errata filed Oct 15, 1998, 12:39 p.m.: 22 IR 759; emergency rule filed Jun 8, 1999, 9:30 a.m.: 22 IR 3123, eff May 26, 1999 [NOTE: IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2223; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; 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)

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 during a race or workout may not be entered or raced during the next ten (10) days without prior approval for racing by the commission veterinarian. If a horse bleeds from its nostrils a second time, the horse shall be placed on the commission veterinarian's list and prohibited from racing for thirty (30) days. If a horse bleeds from its nostrils a third time, the horse shall be placed on the commission veterinarian's list and prohibited from racing for at least thirty (30) 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 commission veterinarian's list by the commission 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)*

71 IAC 8.5-1-5.6 Anti-ulcer medications

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5.6. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered:

- (1) Cimetidine (Tagamet®) – 8-20 mg/kg PO BID-TID
- (2) Omeprazole (Gastrogard®) – 2.2 grams PO SID
- (3) Ranitidine (Zantac®) – 8 mg/kg PO BID

(Indiana Horse Racing Commission; 71 IAC 8.5-1-5.6; 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)

71 IAC 8.5-1-6 Program information

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 6. In order to inform the race track patrons of those horses racing with medication, the permit holder shall indicate in the racing program that a horse is racing with phenylbutazone, furosemide, or both. *(Indiana Horse Racing Commission; 71 IAC 8.5-1-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2881, 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)*

71 IAC 8.5-1-7 Drug classification and penalties

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 7. Upon a finding of a violation of this rule, the stewards shall consider the classification level of the violation as currently established by the Uniform Classification Guidelines of Foreign Substances and Recommended Penalties and Model Rule as revised by the ARCI in August 1996 and any other subsequent revision effective after said date, which are incorporated by reference herein, and impose penalties and disciplinary measures consistent with the recommendations contained therein. Provided, however, that in the event a majority of the stewards determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty. In the event a majority of the stewards wish to impose a greater penalty or a penalty in excess of the authority granted them, then, and in such event, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action. *(Indiana Horse Racing Commission; 71 IAC 8.5-1-7; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2881, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2421; errata filed Mar 5, 1998, 1:46 p.m.: 21 IR 2392; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)*

71 IAC 8.5-1-8 Anabolic steroids

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 8. (a) No AAS (androgenic-anabolic steroid) shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

- (1) 16 β – hydroxystanozolol (metabolite of stanozolol (Winstrol)) – one (1) ng/ml in urine for all horses regardless of sex.
- (2) Boldenone (Equipose® is the undecylenate ester of boldenone) in male horse other than geldings; – fifteen (15) ng/ml in urine. No boldenone shall be permitted in geldings or female horses.
- (3) Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester):
 - (A) In geldings - one (1) ng/ml in urine.

- (B) In fillies and mares – one (1) ng/ml in urine.
- (C) In male horses other than geldings – forty-five (45) ng/ml of nandrolone metabolite, 5 α -oestrane-3 β ,17 α -diol in urine.
- (4) Testosterone:
 - (A) In geldings – twenty (20) ng/ml in urine.
 - (B) In fillies and mares – fifty-five (55) ng/ml urine.
 - (C) In male horses other than geldings minimum thresholds will not apply.
- (c) All other AAS are prohibited in racing horses.
- (d) Post-race urine samples collected from intact males must be identified to the laboratory.
- (e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.
- (f) Implementation of this rule shall commence April 1, 2008.
- (g) During the first ninety (90) calendar days of the first race meet beginning after the implementation date, no positive test establishing the presence of an anabolic steroid shall be considered a violation of this rule and, accordingly, shall not result in a penalty, disqualification, or a forfeiture of any purse, trophy, or award. Trainers shall be notified of any positive test during the ninety (90) day grace period. (*Indiana Horse Racing Commission; 71 IAC 8.5-1-8; 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 May 12, 2008, 1:29 p.m.: 20080521-IR-071080353ERA*)

Rule 2. Drug Testing

71 IAC 8.5-2-1 Laboratory reports

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. A finding by a chemist at a commission-approved equine drug testing laboratory that a test sample taken from a horse contains a drug or its metabolites or analogs, or any substance foreign to the natural horse, or furosemide, or phenylbutazone in excess of the commission-approved tolerance levels shall be prima facie evidence that such foreign substance has been administered to the horse either internally or externally in violation of this rule. It is presumed that:

- (1) the sample of urine, saliva, blood, or other acceptable specimen tested by the approved laboratory to which it is sent is taken from the horse in question, its integrity is preserved;
- (2) all accompanying procedures of collection, preservation, transfer to the laboratory, and analysis of the sample are correct and accurate; and
- (3) the report received from the laboratory pertains to the sample taken from the horse in question and correctly reflects the condition of the horse during the race in which it was entered or, in a case of out of competition testing, when the test sample was taken;

with the burden on the trainer, assistant trainer, or other responsible person to prove otherwise at any hearing in regard to the matter conducted by the stewards or the commission. (*Indiana Horse Racing Commission; 71 IAC 8.5-2-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2882, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed 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.]*)

71 IAC 8.5-2-2 Pre-race testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2. The stewards may require any horse entered to race to submit to a blood or other pre-race test, and no horse is eligible to start in a race until the owner or trainer complies with the required testing procedure. (*Indiana Horse Racing Commission; 71 IAC*

8.5-2-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2882, 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)

71 IAC 8.5-2-3 Selection of horses tested

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 3. (a) The stewards, commission veterinarians, a member of the commission, or the executive director of the commission may order a blood test or urine test, or both, on a horse for the purpose of analysis.

(b) A blood specimen or urine specimen, or both, shall be taken from the following horses after the running of each race:

(1) The horse that finishes first in each race.

(2) Any other horses designated by the stewards, commission veterinarian, a member of the commission, or the executive director of the commission.

(c) The stewards and commission veterinarian shall designate for the taking of such a specimen a horse that races markedly contrary to form.

(d) The provisions of this section do not apply to section 5 of this rule. *(Indiana Horse Racing Commission; 71 IAC 8.5-2-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2882, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed 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)*

71 IAC 8.5-2-4 Taking of samples

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4. (a) Blood, urine, saliva, or other samples shall be:

(1) taken under the direction of the official veterinarian or persons appointed or assigned by the official veterinarian for such purposes;

(2) taken in a detention area approved by the commission unless the official veterinarian or stewards approves otherwise;

(3) witnessed, confirmed, or acknowledged by the trainer of the horse being tested or his or her authorized representative or employee and may be witnessed by the owner, trainer, or other licensed person designated by them;

(4) sent to racing laboratories approved and designated by the commission in such manner as the commission or its designee may direct; and

(5) in the custody of the official veterinarian, his or her assistants, or other persons approved by the executive director or the official veterinarian from the time they are taken until they are delivered for shipment to the testing laboratory.

No person shall tamper with, adulterate, add to, break the seal of, remove, or otherwise attempt to so alter or violate any sample required to be collected by this rule, except for the addition of preservatives or substances necessarily added by the commission-approved laboratory for preservation of the sample or in the process of analysis.

(b) The commission has the authority to direct the approved laboratory to retain and preserve samples for future analysis.

(c) The fact that purse money has been distributed shall not be deemed a finding that no chemical substance has been administered in violation of the provisions of this rule to the horse earning such purse money.

(d) The association shall withhold payment of purse monies on all stake races and races with a purse value of fifty thousand dollars (\$50,000) or more. Upon notification from the commission's primary laboratory, the stewards will communicate with the association horseman's bookkeeper regarding the release of purse monies.

(e) The provisions of subsection (a)(2) and (a)(3) do not apply to 71 IAC 8.5-2-5 [section 5 of this rule]. *(Indiana Horse Racing Commission; 71 IAC 8.5-2-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2882, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed 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)*

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 to report to a track under the jurisdiction of the commission for out of competition testing. The trainer 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 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 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 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) A commission veterinarian, a licensed veterinarian authorized by the commission or a veterinary technician under the direct supervision of a commission 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 (or its designees, in the case of out-of-state collections) must arrive for the taking of blood, urine, or hair samples from an eligible horse as defined in subsections [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, 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; and

(3) the presence in a horse of any substance at anytime listed in subdivision (f) (1) or (f) (2) [subdivision (1) or (2)] in an eligible as defined in subsections (a) and (b) above is prohibited and is a violation of this rule.

(g) The trainer and/or his/her designees shall cooperate with the commission 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, urine, or hair samples under this rule shall be divided in three (3) parts to 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) 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) of this rule. *(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.]*

Rule 3. Split Sample

71 IAC 8.5-3-1 Collection procedures

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. (a) All collection procedures shall be done in accordance with chain of custody guidelines.

(b) Before sending a sample from a horse to a testing laboratory, the commission veterinarian or a designated employee shall divide the specimen into two (2) parts.

(c) The commission veterinarian shall attempt to collect a minimum of fifty (50) milliliters of urine. The primary testing laboratory shall receive a minimum of fifty (50) milliliters of urine. The commission veterinarian shall collect a minimum of thirty (30) milliliters of blood, which shall be divided into two (2) portions, one (1) of which shall be forwarded to the primary laboratory.

A urine specimen shall not be split if less than fifty (50) milliliters is collected from horses. In such instances, the commission is entitled to submit the entire urine specimen for testing or detain the horse an adequate amount of time until it can be obtained. If an insufficient volume of urine is obtained, the trainer and owner are not entitled to a split sample.

(d) If the split sample testing laboratory determines that there is insufficient sample volume to make a specific identification of the sample contents, or if an act of God, power failure, accident, labor strike, or any other event beyond the control of the commission or its representatives prevents the split sample from being tested, then the results of tests performed by the primary laboratory shall be considered prima facie evidence of the condition of the horse.

(e) The commission veterinarian shall retain the part of the urine and blood specimen that is not sent to the primary laboratory.

(f) If the retained part of a specimen is sent for testing, the commission veterinarian shall arrange for the transportation of the specimen in a manner that ensures the integrity of the sample.

(g) Blood samples shall be centrifuged and stored frozen.

(h) The provisions of subsections (b) and (c) do not apply to 71 IAC 8.5-2-5. (*Indiana Horse Racing Commission; 71 IAC 8.5-3-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2883, eff Jul 1, 1995; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 121; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2386; 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.]*)

71 IAC 8.5-3-2 Storage and shipment of split samples

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2. (a) The commission veterinarian shall store the retained part of a specimen in secure, limited access, frozen storage at a site approved by the commission for the period required by this section.

(b) If the results of the initial test on a specimen are negative, the commission veterinarian may discard the retained part of the specimen upon receipt of the negative result. If the result of the initial test on a specimen is positive, the commission veterinarian may discard the retained part of the specimen after the expiration of the period during which an owner or trainer may request the retained part be sent for split testing.

(c) The identity of the drug or drug metabolites shall be revealed to the split sample laboratory. Communication between the primary and split sample laboratory is limited to the exchange of the analytical method and the threshold level used to confirm the drug's identity. (*Indiana Horse Racing Commission; 71 IAC 8.5-3-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2883, eff Jul 1, 1995; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 121; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

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 and shall only be communicated to the commission, stewards, owner, and 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 and must be delivered to the stewards not later than seventy-two (72) hours after the trainer has received notice of a positive test result. Notice of a positive test result may be communicated verbally to the trainer. Failure to request testing of a split sample within 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 may elect to waive his or her right to testing of a split sample.

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

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

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

(g) The presence of a drug or drug metabolite in any quantity, excluding phenylbutazone, flunixin, ketoprofen, and furosemide, 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)*)

71 IAC 8.5-3-4 Administrative procedures subsequent to split sample testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4. (a) The split sample laboratory shall send a confidential written report on the result of its tests to the commission which in turn shall send a confidential report to the trainer and owner forthwith.

(b) No action shall be taken against the trainer or owner if the results of split sample testing are negative.

(c) No hearing shall be held concerning the allegations against the trainer or owner, nor shall purse redistribution take place, until split sample testing has been completed and the results of the primary laboratory have been confirmed.

(d) The owner or trainer shall be notified in writing of the:

(1) results of the primary and split sample laboratories in the case of confirmed positives; and

(2) time and place of any administrative hearings resulting from the findings.

(*Indiana Horse Racing Commission; 71 IAC 8.5-3-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2884, 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*)

71 IAC 8.5-3-5 Cost of split sample testing

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 5. (a) In order for a split sample laboratory to be identified on the list of approved laboratories, it must establish reasonable fees for split sample testing based on their actual cost of testing. Fees for split sample testing shall include the cost of testing negative control samples if requested by the owner or trainer.

(b) The trainer or owner requesting split sample testing and negative control samples shall pay all costs of transporting and conducting tests on the split sample and negative control samples. (*Indiana Horse Racing Commission; 71 IAC 8.5-3-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2884, 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*)

Rule 4. Practicing Veterinarians

71 IAC 8.5-4-1 Eligibility

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 1. Every veterinarian practicing on association premises must be:

- (1) licensed by the veterinary medical examining board;
- (2) recommended for licensure by the commission veterinarian; and
- (3) licensed by the commission.

(Indiana Horse Racing Commission; 71 IAC 8.5-4-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2884, 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)

71 IAC 8.5-4-2 Prohibited acts

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 2. (a) A licensed veterinarian practicing at any meeting is prohibited from possessing any ownership, directly or indirectly, in any horse racing during the meeting.

(b) Veterinarians licensed by the commission as veterinarians are prohibited from placing any wager of money or other things of value directly or indirectly on the outcome of any race conducted at the meeting at which he or she is furnishing professional service.

(c) No veterinarian shall, within the association grounds, furnish, sell, or loan any hypodermic syringe, needle, or other injection device to any other person within the grounds of an association where race horses are stabled. *(Indiana Horse Racing Commission; 71 IAC 8.5-4-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2884, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3414; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)*

71 IAC 8.5-4-3 Single use syringes

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 3. The use of other than single use, disposable syringes and infusion tubes on association premises is prohibited. Whenever a veterinarian has a hypodermic needle or syringe, he or she shall destroy the needle and syringe and remove it from the association premise. *(Indiana Horse Racing Commission; 71 IAC 8.5-4-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2885, 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)*

71 IAC 8.5-4-4 Drug use reports

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 4. A licensed veterinarian who prescribes or administers any medication or treatment to a horse which the veterinarian considers could affect the racing condition of the horse shall furnish immediately to the horse's trainer and to the stewards:

- (1) a written statement setting forth the name of the horse, its trainer, and the type of drug or medication prescribed or administered; and
- (2) the date of the administration or prescription.

(Indiana Horse Racing Commission; 71 IAC 8.5-4-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2885, 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)

71 IAC 8.5-4-5 Records of treatment

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 5. (a) Every veterinarian licensed by the commission who treats any horse or performs other professional services within the enclosure of an organization licensee during a race meeting, or treats horses off the grounds that are actively participating at a race meeting, shall be responsible for maintaining treatment records or a log book on all horses for which they prescribe, administer, or dispense medication or perform other professional services. The treatment records or log book information shall include, but not be limited to, the following:

- (1) The date and time of treatment service.
- (2) Name of race track.
- (3) The veterinarian's printed name and signature.
- (4) The registered name of horse.
- (5) The trainer's name.
- (6) The barn number or location of horse.
- (7) The race date and race number, if any.
- (8) The medication and dosage.
- (9) The reason for treatment or services.

These records shall be current at all times and available to the commission and the stewards upon request. These records shall be retained for at least one (1) year after the conclusion of the race meet and be made available to the commission and stewards upon request. Such records shall be delivered to the commission either upon demand or within twenty-four (24) hours of the request.

(b) Veterinarians shall retain duplicate copies of bills or statements to trainers or owners which shall be retained for at least one (1) year and made available to the commission upon request. Such records shall be delivered to the commission within forty-eight (48) hours of the request.

(c) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription, must have been validly prescribed by a duly licensed veterinarian and be in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

- (1) The name of the product.
- (2) The name, address, and telephone number of the veterinarian prescribing or dispensing the product.
- (3) The name of each patient (horse) for whom the product is intended or prescribed.
- (4) The doses, dosage, duration of treatment, and expiration date of the prescribed or dispensed product.
- (5) The name of the person (trainer) to whom the product was dispensed.

(Indiana Horse Racing Commission; 71 IAC 8.5-4-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2885, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2421; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 121; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2224; 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)

71 IAC 8.5-4-6 Report of illness

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 6. Each veterinarian shall report immediately to the stewards and the commission veterinarian any illness in a horse entrusted into his or her care presenting unusual or unknown symptoms or a contagious or communicable disease. *(Indiana Horse Racing Commission; 71 IAC 8.5-4-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2885, 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)*

71 IAC 8.5-4-7 Storage of supplies and drugs

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 7. Storage areas for veterinarian supplies, equipment, hypodermic syringes, hypodermic needles, and foreign substances, including, but not limited to, narcotics, controlled substances, stimulants, depressants, or other drugs or medications of any type, shall be kept secured by lock and key when left unattended. This requirement specifically includes mobile veterinarian vehicles used on

association grounds. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-7; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-8 Notice in writing

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 8. No horse shall be considered scratched from a race for lameness or sickness until a scratch slip, signed by a veterinarian, is presented to the stewards and approved. Veterinarians shall report medical scratches to the stewards immediately after diagnosis. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-8; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-9 Veterinarian vehicles

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 9. A practicing veterinarian is responsible to ensure that his or her vehicle is not occupied while in the stable area of an association by any person other than the practicing veterinarian, his or her licensed helper, or an authorized association or commission employee. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-9; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-10 Predrawn injectables

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 10. (a) Practicing veterinarians who possess any predrawn injectable syringes containing any substance must also possess the partially filled bottle from which the injectable substance was drawn.

(b) Predrawn syringes and the labeled source container from which it is drawn are subject to confiscation by the commission or association security. The injectable substances are subject to testing by a laboratory approved by the commission or its executive director. The injectable substance must be clearly identified on each predrawn syringe. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-10; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-11 Testing of confiscated drug, substance, or medication

Authority: IC 4-31-3-9
Affected: IC 4-31-12

Sec. 11. Any suspect drug, substance, or medication confiscated from a practicing veterinarian or other person may be sent to the commission's primary laboratory or any other laboratory approved by the commission as designated by its executive director. The practicing veterinarian or other person shall be responsible for the cost of the testing of any unlabeled, mislabeled, incompletely labeled, or unauthorized drug, substance, or medication. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-11; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-12 Contact with entered horses

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 12. (a) Practicing veterinarians and their helpers are prohibited from having contact with a horse within twenty-four (24) hours of its scheduled race except during the administration of furosemide under the guidelines set forth in 71 IAC 8.5-1-5(6) and

71 IAC 8.5-1-5(7) or unless prior approval has been given by the stewards or by the official veterinarian.

(b) Notwithstanding provisions [sic.] (a) above [subsection (a)], in the case of an emergency a practicing veterinarian may have contact with a horse within twenty-four (24) hours of its scheduled race. If this occurs, the practicing veterinarian shall immediately report such contact and the reasons necessitating the contact to the stewards or in their absence to commission or track security. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-12; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; emergency rule filed Apr 24, 2006, 11:11 a.m.: 29 IR 3034; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-4-13 Veterinary helpers

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 13. Practicing veterinarians may employ persons licensed as veterinary helpers to work under their direct supervision. The veterinary helper shall not be permitted in the stable area unless accompanied by his or her employer. Veterinary helpers shall not inject, directly treat, or diagnose any animal. The practicing veterinarian must be present on the grounds if a veterinary helper has access to injection devices or injectable substances. The practicing veterinarian shall assume all financial and regulatory responsibility for the actions of their licensed veterinary helper. (*Indiana Horse Racing Commission; 71 IAC 8.5-4-13; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2225; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

Rule 5. Ban on Possession of Drugs

71 IAC 8.5-5-1 Ban on possession of drugs

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. Except as provided in 71 IAC 8.5-10, a licensee may not possess a foreign substance that is considered a prescription drug or prescription medication unless it is for an existing condition and is prescribed by a veterinarian. When prescribed by a licensed veterinarian, the supply of such a foreign substance shall be limited:

- (1) by ethical practice consistent with the purposes of this article; and
- (2) to topically or orally administered drugs.

(*Indiana Horse Racing Commission; 71 IAC 8.5-5-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, 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*)

71 IAC 8.5-5-2 Prohibited practices

Authority: IC 4-31-3-9

Affected: IC 4-31

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

- (1) Erythropoietin.
- (2) Darbepoietin.
- (3) Oxyglobin.
- (4) Hemopure.
- (5) Snake venom.
- (6) Snail venom.

(b) The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

- (1) any treated horse shall not be permitted to race for a minimum of ten (10) days following treatment;
- (2) the use of extracorporeal shock therapy or radial pulse wave therapy machines shall be limited to veterinarians licensed to practice by the commission;

(3) any extracorporeal shock therapy or radial pulse therapy machines on the association grounds must be registered with and approved by the commission or its designee before use;

(4) all extracorporeal shock therapy or radial pulse therapy treatments must be reported to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian.

(c) The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the commission that has not been approved by the United States Food and Drug Administration (FDA) for any use (human or animal) is forbidden without prior permission of the commission. For purposes of this rule, the term "drug" is any substance, food or nonfood, that is used to treat, cure, mitigate, or prevent a disease, is any nonfood substance that is intended to affect the structure or function of the animal, and includes any substance administered by injection.

(d) While on the premises of a facility under the jurisdiction of the commission, veterinarians may only possess drugs, including compounds as discussed below in subsection (e), in amounts commensurate with the needs of horses with which the veterinarian has a veterinarian-client-patient relationship as that term is defined at 888 IAC 1.1-5-1(2).

(e) Notwithstanding subsection (c), veterinarians may possess compounded drugs with the restrictions listed below. Compounding includes any manipulation of a drug beyond that stipulated on the drug label, including, but not limited to, mixing, diluting, concentrating, and/or creating oral suspensions or injectable solutions.

(1) Compounds may only be prescribed to or prepared for horses with which the veterinarian has a veterinarian-client-patient relationship;

(2) Compounded drugs may only be made from other FDA-approved drugs;

(3) Veterinarians may not possess compounds where there are FDA-approved, commercially available drugs that can appropriately treat the horse; and

(4) Compounded drugs must be in containers that meet the prescription labeling requirements in subsections (i) and (j).

(f) The possession of any drug not approved by the FDA for distribution in the United States is prohibited, unless the veterinarian can show proof of prior authorization from the FDA Center for Veterinary Medicine that has been obtained on a single-patient basis only. The authorization must be maintained in the animal health record. A copy of the authorization must be available for immediate inspection.

(g) Extralabel administration of drugs, including use for indication or at dosage levels, frequencies, or routes of administration other than those stated in the labeling, is permitted for FDA-approved drugs only. Extralabel use must meet the prescription labeling requirements in subsections (i) and (j).

(h) A veterinarian shall not possess any drug that is not labeled pursuant to the requirements of subsection (i) or (j).

(i) Drugs possessed by practicing veterinarians on the premises of a facility under the jurisdiction of the commission which have not yet been prescribed or dispensed to horses with which the veterinarian has a veterinarian-client-patient relationship must be affixed with the manufacturer's label which must include:

(1) recommended or usual dosage;

(2) route for administration, if it is not for oral use;

(3) quantity or proportion of each active ingredient;

(4) names of inactive ingredients, if for other than oral use;

(5) an identifying lot or control number;

(6) manufacturer, packer, or distributor's name and address; and

(7) net quantity contents.

If any information as described herein is not included on the manufacturer's label, but instead is on the manufacturer's package insert, the package insert must be maintained on the veterinarian's truck.

(j) When issuing a prescription for or dispensing a drug to a horse with which the veterinarian has a veterinarian-client-patient relationship, the veterinarian must affix or cause to be affixed a label that sets forth the following:

(1) Name and address of the veterinarian;

(2) Name and address of the client;

(3) Name of the horse;

(4) Date of prescription and/or dispensing of drug;

(5) Directions for use, including dose and duration directions, and number of refills;

(6) Name and quantity of the drug (or drug preparation, including compounds) prescribed or dispensed;

(7) For compounded drugs, the established name of each active ingredient; and

(8) Any necessary cautionary statements.

(k) The practice, administration, or application of a treatment, procedure, therapy, or method identified below, which is performed on the premises of a facility under jurisdiction of the commission or in any horse scheduled to compete in a race under the jurisdiction of the commission and which may endanger the health and welfare of the horse or endanger the safety of the rider or driver, or the use of which may adversely affect the integrity of racing is prohibited: Intermittent hypoxic treatment by external device. (*Indiana Horse Racing Commission; 71 IAC 8.5-5-2; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 57; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2386; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1921; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2226; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; 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.]*)

Rule 6. Contraband

71 IAC 8.5-6-1 Contraband

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. No person other than a licensed veterinarian shall have in his or her possession within the association grounds any injectable substance or any hypodermic syringe or hypodermic needle or similar instrument which may be used for injection. No such person may possess a tube or any other device used as a drench or any device that may be used to administer a drug or medication to a horse. (*Indiana Horse Racing Commission; 71 IAC 8.5-6-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, 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*)

Rule 7. Postmortem; Disposal of a Dead Horse

71 IAC 8.5-7-1 Postmortem; disposal of a dead horse

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) The commission veterinarian or stewards shall order a postmortem examination of:

(1) each horse that:

(A) suffers a breakdown on the racetrack, in training, or in competition; and

(B) is destroyed; and

(2) each horse that expires while stabled on a racetrack under the jurisdiction of the commission;

to determine the injury or sickness that resulted in euthanasia or natural death.

(b) All shoes shall be left on the horse.

(c) A postmortem examination under this section shall be conducted by a veterinarian approved by the commission, at a time and place acceptable to the commission veterinarian, in accordance with the most recent addition [*sic*] of the Association of Equine Practitioners Guidelines for the Necropsy of a Racehorse.

(d) Test samples specified by the commission veterinarian shall be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. However, blood and urine test samples shall be procured before euthanasia when practical. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(e) The commission shall pay all costs involved in a postmortem examination ordered by the commission or the commission veterinarian.

(f) A written record shall be filed with the commission veterinarian at the completion of each postmortem examination. The record must contain all information normally contained in a postmortem report, as well as any other information specifically requested by the commission veterinarian. (*Indiana Horse Racing Commission; 71 IAC 8.5-7-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006,*

11:00 a.m.: 29 IR 2227; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA)

71 IAC 8.5-7-2 Report of horse death

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 2. (a) The death of any horse on association grounds at any time shall be immediately reported to the stewards or the executive director by the practicing veterinarian tending the horse.

(b) The practicing veterinarian tending to a horse that dies on association grounds shall complete the IHRC Death and Euthanasia Report. Such report shall be filed with the stewards within twenty-four (24) hours of the death or euthanasia of the horse.

(c) Absent a practicing veterinarian tending to the death or euthanasia of a horse the stewards or the executive director shall designate a licensed veterinarian to complete the IHRC Death and Euthanasia Report.

(d) A horse that dies on association grounds shall not be removed without permission of the stewards or the executive director. (*Indiana Horse Racing Commission; 71 IAC 8.5-7-2; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2227; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546*)

Rule 8. Veterinarian's List

71 IAC 8.5-8-1 Veterinarian's list

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. (a) The official veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity, or medical condition.

(b) A horse may be removed from the veterinarian's list when, in the opinion of the official veterinarian, the horse has satisfactorily recovered the capability of performing in a race. (*Indiana Horse Racing Commission; 71 IAC 8.5-8-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, 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*)

Rule 9. Accident on Track

71 IAC 8.5-9-1 Accident on track

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. Any horse that falls or is involved in an accident on the track shall report to the test barn for an examination and emergency treatment by the commission veterinarian or track veterinarian. Such horse may be placed on the veterinarian's list at the discretion of the commission veterinarian. (*Indiana Horse Racing Commission; 71 IAC 8.5-9-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, 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*)

Rule 10. Human Substance Abuse Testing

71 IAC 8.5-10-1 Use or possession of controlled substance or prescription drugs

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 1. (a) No person holding a license issued by the commission or applying for such license shall have present within his or her body, have in his or her possession, or be under the influence of any controlled substance within the enclosure of any race track or other facility under the control of the commission. Furthermore, no person holding a license issued by the commission or applying for such license shall have in his or her possession any prescription drug within the enclosure of any race track under the

control of the commission, except as provided for in subsection (c).

(b) Except as set forth in subsection (c), the fact that any person charged with a violation of this rule is or has been lawfully entitled to use alcohol or a controlled substance or prescription drugs shall not constitute a defense against any charge of violating this rule.

(c) A licensee at a race track may possess a prescription drug for use on the licensee's own person if:

(1) it is prohibited from being dispensed by Indiana or federal law without a prescription; and

(2) the licensee is in possession of documentary evidence that a valid prescription for the substance has been issued to the licensee; and

(3) the licensee has filed with the presiding steward a sworn statement clearly describing the prescription drug and its intended use.

(Indiana Horse Racing Commission; 71 IAC 8.5-10-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2886, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2783; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)

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

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. Each licensee at a race track or other facility under the control of the commission or applicant for a license may be subject to a urine test at any time while within the enclosure of any race track or other facility under the control of the commission at the direction of the executive director, the stewards, or commission security if there is reasonable suspicion to believe that such licensee is possessing or using any controlled substance or any drug in violation of any federal or state law. This provision notwithstanding, licensees are subject to random urine testing pursuant to policies approved by the commission. Failure to submit to or complete a urine test at the time, location, and manner directed by commission personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete such a test shall be immediately suspended for sixty (60) days and shall not be allowed to participate at any race track under the control of the commission until a negative test result is achieved. Any applicant who fails to submit to such a test when requested to do so shall be refused or denied a license. *(Indiana Horse Racing Commission; 71 IAC 8.5-10-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2887, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2422; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2783; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2227; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)*

71 IAC 8.5-10-3 Reasonable suspicion selection

Authority: IC 4-31-3-9

Affected: IC 4-31

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

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

(1) Unexplained or continued rule violations which have a detrimental effect on racing.

(2) Involvement in any accident which causes injury to person or animal at the track as well as any near accident which created a clear danger of accident or injury to person or animal at the track.

(3) Willful conduct detrimental to horse racing as evidenced by continued rule violations, other disciplinary problems, behavioral problems, disturbances, or other similar conduct at the track.

(4) Observable physical or emotional impairment at the track.

(5) Involvement in a race of questionable outcome or circumstance as determined by the stewards in the exercise of their expertise.

(6) Willful abuse of animal or person who is engaged in a race, work, or exercise at the track.

(7) Prior positive test or tests in this or other jurisdictions, excluding those where a valid legal prescription has been revealed.

(8) Performance of prescribed duties in a manner which indicates a best effort to win is not present at the track.

(9) Information supplied by:

- (A) a law enforcement agency;
- (B) the ARCI; or
- (C) the horse racing commission of any state or country;

which is verified in writing relating to drug or alcohol abuse, or both.

(10) Any other physical conduct at the track which can be documented which would indicate reasonable grounds to believe the existence of, dependence on, possession of, or usage of:

- (A) a controlled substance; or
- (B) an alcohol violation.

(11) Refusal to provide a urine sample when requested to do so within this section.

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

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

71 IAC 8.5-10-4 Taking of samples

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. Any applicant or licensee selected by direction of the stewards, commission personnel, or their designee, who is requested to submit to a urine test shall, without undue delay, at a location and in the manner prescribed by the commission provide the urine sample. *(Indiana Horse Racing Commission; 71 IAC 8.5-10-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2887, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)*

71 IAC 8.5-10-5 Positive sample results

Authority: IC 4-31-3-9

Affected: IC 4-31

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

- (1) the sample of urine tested by the laboratory to which it is sent is taken from the person and its integrity has been preserved;
- (2) all accompanying procedures of collection, preservation, transfer to the laboratory, and analysis of the sample are correct and accurate; and
- (3) the report received from the laboratory pertains to the sample taken from the person in question and correctly reflects the condition of the person at the time that the sample was given.

With respect to the presumptions set forth in this subsection, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter which is conducted by the stewards or by the commission.

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

- (1) public service;
- (2) in person; or
- (3) by certified mail, return receipt requested;

of the positive test.

(c) An association that has obtained a positive test result confirming the presence of any controlled substance in an association employee, who is a licensee or an applicant for a license, shall notify the commission director of security or his or her designee and the affected employee as quickly as possible. *(Indiana Horse Racing Commission; 71 IAC 8.5-10-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; emergency rule filed Aug*

23, 2001, 9:58 a.m.: 25 IR 122; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)

71 IAC 8.5-10-6 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31

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

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

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

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

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

(c) In determining the penalty to impose for an offense covered by this rule, the stewards or the commission may consider any mitigating and/or exacerbating circumstances and make an appropriate adjustment to the penalties which are set forth in subsection (a). (*Indiana Horse Racing Commission; 71 IAC 8.5-10-6; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2158; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2784; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Aug 20, 2002, 3:00 p.m.: 26 IR 58; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

Rule 11. Prohibition of Alcohol

71 IAC 8.5-11-1 Prohibited use or presence of alcohol within the enclosure

Authority: IC 4-31-3-9

Affected: IC 4-31-8-4

Sec. 1. (a) No racing official or jockey during or prior to the performance of his or her duties shall consume any alcoholic beverage within the enclosure of any race track under the control of the commission.

(b) No racing official, jockey, trainer, groom, or other licensee attending to horses or within a restricted area of any race track under the control of the commission shall have present within his or her body any amount of alcohol in excess of five-hundredths of one percent (.05%) by weight in grams in one hundred (100) milliliters of the person's blood, or in two hundred ten (210) liters of the person's breath.

(c) The fact that any person charged with a violation of this rule is or has been otherwise lawfully entitled to use or consume

an alcoholic beverage shall not constitute a defense against any charge of violating this rule. (*Indiana Horse Racing Commission; 71 IAC 8.5-11-1; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2423; errata filed Mar 5, 1998, 1:46 p.m.: 21 IR 2392; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2785; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-11-2 Licensee subject to testing; positive sample results

Authority: IC 4-31-3-9

Affected: IC 4-31-8-4

Sec. 2. A permit holder shall provide an alcohol breath testing device that is approved by the commission and operated by a person certified to use such a device. All jockeys, stewards, starters, and assistant starters shall submit to a breath test at each program in which they participate. Any licensee on the track surface during training hours is subject to testing at the discretion of the stewards. In addition, the stewards, the commission director of security, or the track chief of security may order a licensee to submit to a breath test at any time there is reason to believe the licensee may have consumed sufficient alcohol to cause the licensee to fail a breath test. A positive test result as defined by section 1(b) of this rule shall be prima facie evidence that there has been a violation of section 1 of this rule. In the event of such positive test, it is presumed that:

- (1) the breath sample tested is taken from the person and its integrity has been preserved;
- (2) all accompanying procedures of collection and analysis of this sample are correct and accurate; and
- (3) the report issued by the commission pertains to the sample taken from the person in question correctly reflects the condition of the person at the time of the sample was given.

With respect to the presumptions set forth in this section, the burden is on the person against whom the test is offered to prove otherwise at any hearing in regard to the matter, which is conducted by the stewards or by the commission. (*Indiana Horse Racing Commission; 71 IAC 8.5-11-2; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2785; 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; errata filed Aug 11, 2006, 11:15 a.m.; 20060830-IR-071060278ACA; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-11-3 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31-8-4; IC 4-31-13

Sec. 3. (a) A person whose breath test shows a reading of more than five-hundredths of one percent (0.05%) by weight of alcohol in the person's breath or blood shall be summarily suspended under the rules of the commission and subject to any other sanction available to the commission pursuant to the provisions of IC 4-31-13.

(b) The stewards may relieve a licensee, except an owner, owner/trainer, or trainer, of any duties for that day should that person show a reading between one-hundredths [*sic.*] of one percent (0.01%) and five-hundredths of one percent (0.05%) by weight of alcohol in a person's blood.

(c) The permit holder's security department shall immediately inform the stewards of any reading of one-hundredths [*sic.*] of one percent (0.01%) or and [*sic.*] above. (*Indiana Horse Racing Commission; 71 IAC 8.5-11-3; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2888, eff Jul 1, 1995; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2894; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2785; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1921; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA*)

71 IAC 8.5-11-4 Refusal or failure to be tested

Authority: IC 4-31-3-9

Affected: IC 4-31-8-4

Sec. 4. The stewards shall, on behalf of the commission, impose the following sanctions against a licensee who refuses or fails to submit to or complete a breath test:

- (1) For the first refusal or failure, a civil penalty of one hundred dollars (\$100) and a seven (7) day suspension.
- (2) For a second refusal or failure, a civil penalty of two hundred fifty dollars (\$250) and a thirty (30) day suspension.

(3) For any additional refusals or failures to submit to a breath test, a civil penalty of two hundred fifty dollars (\$250), a sixty (60) day suspension, and referral of the case to the commission for any further action that the commission considers necessary. *(Indiana Horse Racing Commission; 71 IAC 8.5-11-4; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2889, eff Jul 1, 1995; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2786; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA)*

Rule 12. Erythropoietin and Darbepoietin (Repealed)

(Repealed by Indiana Horse Racing Commission; 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.]

Rule 13. Excess Levels of Sodium, Bicarbonate, or pH

71 IAC 8.5-13-1 General provisions

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 1. An excess level of sodium (Na), bicarbonate (HCO₃), or pH shall be deemed to have an adverse effect on the horse by changing the normal physiological state of the horse. Excess levels of sodium (Na), bicarbonate (HCO₃), or pH in the horse are deemed to be contrary to the best interests of thoroughbred and quarter horse racing and to the best interests of the welfare of the equine participants and shall be a violation of these rules. *(Indiana Horse Racing Commission; 71 IAC 8.5-13-1; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3599)*

71 IAC 8.5-13-2 Specific levels requiring scratch

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 2. (a) The stewards shall order scratched or disqualified:

(1) any horse that races or is scheduled to race that registers readings of:

(A) bicarbonate (HCO₃) at thirty-six (36) or higher; and

(B) a pH level at seven and four hundred forty-five thousandths (7.445) or higher; and

(2) any horse on the bleeder's list that races or is scheduled to race that registers readings of:

(A) bicarbonate (HCO₃) at thirty-eight (38) or higher; and

(B) a pH level at seven and four hundred seventy-thousandths (7.470) or higher;

and on each of the two (2) tests from a blood gas analyzer when such tests have been conducted. No horse shall be ordered scratched or disqualified in accordance with the provisions of this section unless both readings for bicarbonate (HCO₃), and pH are equal to or exceed the levels established in this section.

(b) In its discretion, the commission or commission designated track employees may retest a horse whose first test results are within allowable limits. Should a retest under this situation indicate high levels as provided in subsection (a), the retest shall be considered an initial screening. High levels on a subsequent test as provided in subsection (a) shall be considered a violation of this rule and the horse shall be scratched or disqualified.

(c) The provisions of subsection (a) notwithstanding, the stewards shall not order the disqualification of a horse selecting quarantine under these rules if the commission is satisfied on the basis of clear and cogent evidence derived from the testing of the horse's blood during quarantine that such levels are physiologically normal for that specific horse. *(Indiana Horse Racing Commission; 71 IAC 8.5-13-2; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600)*

71 IAC 8.5-13-3 Refusal to test

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 3. Any owner, trainer, or other licensed delegate of any owner or trainer who refuses or fails to permit any horse or horses

to be tested when a demand or demands for such testing has been made by an [sic., a] track employee or commission employee shall have the applicable horse or horses scratched or disqualified by the stewards. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-3; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-4 Blood gas analyzer report

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4. A finding by the technician licensed by the commission operating the blood gas analyzer that a test sample taken from a horse contains any substance foreign to the natural horse, including the levels of substance in excess of those established in this rule, shall be prima facie evidence that such foreign substance has been administered to the horse either internally or externally in violation of this rule. It is presumed that:

- (1) the sample of blood or other acceptable specimen tested by the blood gas analyzer to which it is sent is taken from the horse in question, its integrity is preserved;
- (2) all accompanying procedures of collection, preservation, transfer to the blood gas analyzer, and analyses of the sample are correct and accurate; and
- (3) the report received from the blood gas analyzer pertains to the sample taken from the horse in question and correctly reflects the condition of the horse at the time the sample was done;

with the burden on the trainer, assistant trainer, or other responsible person to prove otherwise at any hearing in regard to the matter conducted by the stewards or the commission. The trainer shall be responsible for promptly notifying the owner of a horse with a blood gas analysis report indicating levels in violation of this rule. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-4; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-4.1 Finding of normal levels

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 4.1. For any horse whose levels equal or exceed the levels set forth in section 2 of this rule, it is presumed that the levels are not physiologically normal for that specific horse if the horse:

- (1) has been tested by the commission at least twice in the past sixty (60) days; and
- (2) has been found to have levels beneath the levels established in section 2 of this rule.

The prior results shall constitute a finding that excessive levels are not physiologically normal for that horse. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-4.1; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-5 Option to determine normal level

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 5. (a) The quarantine provisions of this section shall apply only to horses who have not been found under section 4.1 of this rule to have physiologically normal levels beneath the levels established in section 2 of this rule.

(b) If a test sample from a horse contains levels of substance equal to or in excess of the levels in section 2 of this rule, the owner or trainer of that horse contending that such levels are physiologically normal for that specific horse may request the horse be held in approved quarantine on the grounds of the association. Such quarantine shall be in accordance with policies and procedures adopted by the commission and shall be for a period determined by the executive director or the stewards, but not greater than five (5) days, and is at the sole expense of the owner or trainer requesting the quarantine. Quarantine security shall be provided by the association per the instruction of the stewards. During the quarantine, the horse shall be retested periodically, but it shall not be permitted to race. In addition, during the period of the quarantine the horse may be exercised and trained at times prescribed by the commission. Removal of a horse from quarantine without the permission of the stewards shall constitute a waiver of any claim of normally high levels for that specific horse. A request for quarantine shall be made within seventy-two (72) hours of notification of a violation of this rule.

(c) Subsequent to the horse being quarantined and retested, if the commission is satisfied on the basis of clear and cogent

evidence derived from the testing of the horse's blood that such levels are physiologically normal for that specific horse, the stewards may waive the provisions of this rule and permit the horse to race. Notwithstanding the provisions of subsection (b), the stewards shall assess the expense of quarantine to the association if they determine that high blood levels are physiologically normal for that specific horse. In addition, no disciplinary action will be pursued by the stewards or the commission against the trainer of any horse found, after quarantine, to have physiologically normal levels in excess of the levels established in section 2 of this rule.

(d) For purposes of this section, clear and cogent evidence shall mean continued and repeated levels in excess of the levels established in section 2 of this rule during the period of quarantine. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-5; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3600*)

71 IAC 8.5-13-6 Penalties

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 6. (a) The trainer or responsible party shall receive a warning for the first violation of this rule. No ruling shall be issued for the first violation of this rule.

(b) The stewards shall consider 71 IAC 2-11-1 when determining the penalty for a licensee who commits a second or subsequent violation of this rule or a comparable rule in another jurisdiction. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-6; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

71 IAC 8.5-13-7 Presence of horse in ship-in barn

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 7. The trainer is responsible for having any horse shipping to the track on race day to go directly to its assigned stall in the ship-in barn. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-7; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

71 IAC 8.5-13-8 Presence of caretaker with horse

Authority: IC 4-31-3-9

Affected: IC 4-31-12

Sec. 8. The trainer is responsible for having a licensed person present with the horse until the horse leaves for the paddock. (*Indiana Horse Racing Commission; 71 IAC 8.5-13-8; emergency rule filed Aug 10, 2005, 1:00 p.m.: 28 IR 3601*)

Rule 14. Equine Health; Requirements

71 IAC 8.5-14-1 Equine health; requirements

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) Any horse stabled on the grounds, participating in a race, or entered in a race shall have on file with the association prior to entering the association premises a negative test result for equine infectious anemia (coggins test) within the last twelve (12) months, in accordance with state law.

(b) Any horse entering association grounds that is arriving from out of state, and entering association grounds for the first time after racing or residing in a state other than Indiana for any period of time, shall have on file with the racing secretary prior to entering the association premises a certificate of veterinary inspection (CVI or health certificate) completed within the last thirty (30) days by a licensed veterinarian, in accordance with state law.

(c) A copy of all documents described in Section 1(a) and Section 1(b) above [*subsections (a) and (b)*] and any additional documentation required by the association shall be kept with the horse at all times and presented to security personnel upon entering association premises. (*Indiana Horse Racing Commission; 71 IAC 8.5-14-1; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA*)

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