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**TITLE 71 INDIANA HORSE RACING
COMMISSION**

LSA Document #04-117(E)

DIGEST

Amends 71 IAC 1-1-1 concerning applicability. Amends 71 IAC 3-2-9 concerning clarifications on horses to be placed on judge's list. Amends 71 IAC 3.5-2-9 concerning clarifications on horses to be placed on steward's list. Adds 71 IAC 8-12 concerning laboratory findings, claimed horses, authority to test, out-of-state horses, and Indiana sires stakes and Genesis series. Adds 71 IAC 8.5-12 concerning claimed horses, authority to test, and out-of-state horses. Effective April 21, 2004.

71 IAC 1-1-1

71 IAC 8-12

71 IAC 3-2-9

71 IAC 8.5-12

71 IAC 3.5-2-9

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

71 IAC 1-1-1 Applicability

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. The definitions in this rule apply to *[sic.]* ~~articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12~~ of **throughout** this title. (*Indiana Horse Racing Commission; 71 IAC 1-1-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1113; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2814, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2753*)

SECTION 2. 71 IAC 3-2-9, AS AMENDED AT 27 IR 1911, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

71 IAC 3-2-9 Judge's list

Authority: IC 4-31-3-9

Affected: IC 4-31

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

- (1) Making a break in a qualifying race.
- (2) Making a break in a race following a qualifying race unless finishing 1st, 2nd, **first, second,** or 3rd **third**. Two (2) year old nonwagering purse races for three hundred dollars (\$300) or less shall be considered a qualifying race.
- (3) Poor performance or failure to go in a qualifying time following a qualifying race.
- (4) Poor performance in a qualifying race regardless of going in qualifying time.
- (5) ~~Failing~~ **Failure** to go in qualifying time in two (2) consecutive starts.
- (6) Failure to go in qualifying time previous or subsequent to a break line.
- (7) Making breaks in two (2) consecutive starts unless finishing 1st, 2nd, **first, second,** or 3rd **third** in one (1) of the two (2).
- (8) Being scratched sick or lame in two (2) consecutive programmings or scratched sick or lame from a race following

a qualifying race.

(9) Scratched sick or lame, having failed to go in qualifying time in a previous or subsequent start to that scratch.

(10) Scratched sick/lame in a race previous or subsequent to a break line.

(11) Numerous bad lines in its last six (6) starts regardless of being consecutive on finishing 1st; 2nd; **first, second, or 3rd; third.**

(b) ~~(1)~~ A horse showing a satisfactory line in one (1) of its last two (2) starts or its last start at a pari-mutuel track prior to racing at an Indiana county fair half-mile track, the aforementioned county fair lines will not be considered towards its eligibility to return to the pari-mutuel track. Notwithstanding the above satisfactory line, at the pari-mutuel track, must be within its last six (6) programmed lines but within thirty (30) days of the pari-mutuel start (race date to race date).

~~(2)~~ (c) A horse having not raced at a pari-mutuel track must show a satisfactory charted line in one (1) of its last two (2) county fair starts within the time standards set.

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

(e) A horse that has been the subject of a finding by a commission-approved laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from the horse shall be placed on the judge's list. Such horse shall not be released from the judge's list unless and until it has tested negative by a commission-approved laboratory for the antibody of erythropoietin or darbepoietin.

~~(d)~~ (f) A horse may not be released from the judge's list without permission of the judges. *(Indiana Horse Racing Commission; 71 IAC 3-2-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1129; emergency rule filed Apr 9, 1998, 1:18 p.m.: 21 IR 3377; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2534; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2380; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1911; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2754)*

SECTION 3. 71 IAC 3.5-2-9 IS AMENDED TO READ AS FOLLOWS:

71 IAC 3.5-2-9 Steward's list

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 9. (a) The stewards shall maintain a steward's list of the horses ~~which that~~ are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the race track that may endanger the health ~~or~~ and safety of other participants in racing.

(b) The stewards may place a horse on the steward's list when there exists a question as to the exact identification, ownership, or trainer of said horse.

(c) A horse that has been the subject of a finding by a commission-approved laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from the horse shall be placed on the steward's list. Such horse shall not be released from the steward's list unless and until it has tested negative by a commission-approved laboratory for the antibodies of erythropoietin or darbepoietin.

~~(e)~~ (d) A horse may not be released from the steward's list without permission of the stewards. *(Indiana Horse Racing Commission; 71 IAC 3.5-2-9; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2831, eff. Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2380; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2754)*

SECTION 4. 71 IAC 8-12 IS ADDED TO READ AS FOLLOWS:

Rule 12. Erythropoietin and Darbepoietin

71 IAC 8-12-1 Laboratory findings

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) A finding by a commission-approved laboratory that the antibody of erythropoietin or darbepoietin was present in a sample taken from a horse shall establish that the horse is unfit to race in any subsequent race, subject to the provisions of subsection (b).

(b) Any horse that has been the subject of a finding by a commission-approved laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse shall be placed on the judge's list and shall not be entered or allowed to race in any subsequent race until the horse has tested negative by a commission-approved laboratory for the antibodies of erythropoietin or darbepoietin.

(c) Notwithstanding any inconsistent provision of this article, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, nor shall the trainer of the horse be subject to the application of trainer's responsibility rules based solely upon a finding by the laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse.

(d) A finding by a commission-approved laboratory for the antibody of erythropoietin or darbepoietin is not subject to split sample testing. *(Indiana Horse Racing Commission; 71 IAC 8-12-1; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755)*

71 IAC 8-12-2 Claimed horses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. All claimed horses shall be tested by a commission-approved laboratory for the presence of the antibody erythropoietin or darbepoietin. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse, the claimant's trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five (5) days of receipt of such notice by his or her trainer. An election to void a claim shall be submitted in writing to the judges by the claimant or his trainer. *(Indiana Horse Racing Commission; 71 IAC 8-12-2; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755)*

71 IAC 8-12-3 Authority to test

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) The executive director shall have the authority to demand the testing of any horse for the presence of the antibody to erythropoietin or darbepoietin that is:

- (1)** stabled at a pari-mutuel racetrack in Indiana;
- (2)** participating at a pari-mutuel racetrack in Indiana regardless of where it is stabled;
- (3)** trained by a licensed trainer participating at a pari-mutuel racetrack in Indiana; or
- (4)** listed on a stall application.

(b) Any horse requested to be tested pursuant to this rule shall be made available for testing at a time and location determined by the commission. Failure to present a horse for testing may result in the horse being placed on the judges' list until such testing occurs. *(Indiana Horse Racing Commission; 71 IAC 8-12-3; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755)*

71 IAC 8-12-4 Out-of-state horses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. A horse on a judge's list or veterinarian's list in another jurisdiction due to the presence of the antibody to erythropoietin and darbopoietin shall be ineligible to be entered in a race. A trainer entering such an ineligible horse shall be subject to disciplinary action. (*Indiana Horse Racing Commission; 71 IAC 8-12-4; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755*)

71 IAC 8-12-5 Indiana Sires Stakes and Genesis Series

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 5. (a) In order to be eligible to participate in any Indiana Sires Stakes finals and the Genesis Series finals, a horse must provide a blood sample on the date of the last leg of the series for the purpose of determining the presence of the antibody to erythropoietin or darbopoietin.

(b) A horse not participating in the last leg of the series must report to the track on the date of the last leg of the series at a time and location determined by the commission to provide a blood sample for the purpose of determining the presence of the antibody to erythropoietin or darbopoietin.

(c) This rule supercedes the conditions of the Indiana Sires Stakes and Genesis Series. (*Indiana Horse Racing Commission; 71 IAC 8-12-5; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755*)

SECTION 5. 71 IAC 8.5-12 IS ADDED TO READ AS FOLLOWS:

Rule 12. Erythropoietin and Darbopoietin

71 IAC 8.5-12-1 Laboratory findings

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 1. (a) A finding by a commission-approved laboratory that the antibody of erythropoietin or darbopoietin was present in a sample taken from a horse shall establish that the horse is unfit to race in any subsequent race, subject to the provisions of subsection (b).

(b) Any horse that has been the subject of a finding by a commission-approved laboratory that the antibody of erythropoietin or darbopoietin was present in the sample taken from that horse shall be placed on the steward's list and shall not be entered or allowed to race in any subsequent race until the horse has tested negative by a commission-approved laboratory for the antibodies of erythropoietin or darbopoietin.

(c) Notwithstanding any inconsistent provision of this article, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, nor shall the trainer of the horse be subject to the application of trainer's responsibility rules based solely upon a finding by the laboratory that the antibody of erythropoietin or darbopoietin.

(d) A finding by a commission-approved laboratory for the antibody of erythropoietin or darbopoietin is not subject to split sample testing. (*Indiana Horse Racing Commission; 71 IAC 8.5-12-1; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2756*)

71 IAC 8.5-12-2 Claimed horses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 2. All claimed horses shall be tested by a commission-approved laboratory for the presence of the

antibody erythropoietin or darbepoietin. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from that horse, the claimant's trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five (5) days of receipt of such notice by his or her trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer. *(Indiana Horse Racing Commission; 71 IAC 8.5-12-2; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2756)*

71 IAC 8.5-12-3 Authority to test

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 3. (a) The executive director shall have the authority to demand the testing of any horse for the presence of the antibody to erythropoietin or darbepoietin that is:

- (1) stabled at a pari-mutuel racetrack in Indiana;**
- (2) participating at a pari-mutuel racetrack in Indiana regardless of where it is stabled;**
- (3) trained by a licensed trainer participating at a pari-mutuel racetrack in Indiana; or**
- (4) listed on a stall application.**

(b) Any horse requested to be tested pursuant to this rule shall be made available for testing at a time and location determined by the commission. Failure to present a horse for testing may result in the horse being placed on the judges' list until such testing occurs. *(Indiana Horse Racing Commission; 71 IAC 8.5-12-3; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2756)*

71 IAC 8.5-12-4 Out-of-state horses

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 4. A horse on a steward's list or veterinarian's list in another jurisdiction due to the presence of the antibody to erythropoietin and darbepoietin shall be ineligible to be entered in a race. A trainer entering such an ineligible horse shall be subject to disciplinary action. *(Indiana Horse Racing Commission; 71 IAC 8.5-12-4; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2756)*

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