

**TITLE 3 AGRICULTURE
DELAWARE ADMINISTRATIVE CODE**

1

**DEPARTMENT OF AGRICULTURE
HARNESS RACING COMMISSION
500 Harness Racing Commission**

501 Harness Racing Rules and Regulations

1.0 Definitions

“**Act**” is Chapter 100 of Title 3 of the **Delaware Code**.

“**Added Money**” is the amount exclusive of trophy added into a stakes by the association, or by sponsors, state-bred programs or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

“**Age**” of a horse foaled in North America shall be reckoned from the first day of January of the year of foaling.

“**Also Eligible**” pertains to a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline.

“**Appeal**” is a request for the Commission or its designee to investigate, consider and review any decisions or rulings of steward/judges of a meeting.

“**Association**” is a person or business entity holding a license from the commission to conduct racing and/or pari-mutuel wagering.

“**Association Grounds**” is all real property utilized by the association in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots and any other areas under the jurisdiction of the Commission.

“**Authorized Agent**” is a person licensed by the Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.

“**Betting Interest**” is one or more horses in a pari-mutuel contest which are identified by a single program number for wagering purposes.

“**Bleeder**” is a horse which has demonstrated external evidence of exercise induced pulmonary hemorrhage (epistaxis, or bleeding from one or both nostrils) and/or the existence of hemorrhage into the trachea post exercise as observed upon endoscopic examination.

“**Bleeder List**” is a tabulation of all bleeders to be maintained by the Commission.

“**Claiming Race**” is a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules.

“**Commission**” is the Delaware Harness Racing Commission.

“**Conditioned Race**” is an overnight race to which eligibility is determined according to specified conditions which include age, sex, earnings, number of starts and position of finishes.

“**Controlled Substance**” is any substance included in the five classification schedules of the (U.S.) Controlled Substance Act of 1970.

“**Coupled Entry**” is two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

“**Course**” is the track over which horses race.

TITLE 3 AGRICULTURE DELAWARE ADMINISTRATIVE CODE

2

“**Dead Heat**” is the finish of a race in which the noses of two or more horses reach the finish line at the same time.

“**Declaration**” is the naming of a particular horse as a starter in a particular race.

“**Draw**” is the process of assigning post positions and the process of selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

“**Driver**” is a person who is licensed to drive in races.

“**Early Closing Race**” is a race for a definite amount of money to which entries close at least six weeks prior to the race.

“**Entry**” (see "Coupled Entry").

“**Exhibition Race**” is a race on which no wagering is permitted.

“**Extended Break**” of a horse is a horse that is not on its proper gait for 25 consecutive strides or more after the start of the race.

“**Financial Interest**” is an interest that could result directly or indirectly in receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity; or as a result of salary, gratuity or other compensation or remuneration from any person. The lessee and lessor of a horse have a financial interest.

“**Guest Association**” is an association which offers licensed pari-mutuel wagering on contests conducted by another association (the host) in either the same jurisdiction or another jurisdiction.

“**Handicap**” is a race in which allowances are made according to a horse's age, sex, claiming price and performance.

“**Handle**” is the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

“**Host Association**” is the association conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

“**In Harness**” is when the horses are attached to a dual shaft sulky. All sulkies used in a race must be equipped with unicolored or colorless wheel discs of a type approved by the Commission and placed on the inside and outside of the wheel. Any change in the basic design of a sulky and/or major equipment shall require Commission approval. Rules, regulations, standards and/or guidelines affecting the use of any new sulky and/or equipment must be approved by the Commission before their adoption.

“**Inquiry**” is when the judges suspect that a foul or any other misconduct occurred during a heat or dash.

“**Kicking**” is a blow or thrust with the foot against any part of the horse's body or to impel by striking with the foot at any time on the racetrack, including before, during or after the race.

“**Late Closing Race**” is a race for a fixed amount of money to which entries close less than six weeks but not more than three days before the race is to be contested.

“**Length**” is the distance defined as extending from a horse's nose to the posterior of the hindquarters. A length shall not include the space occupied by the driver or sulky beyond the horse's hindquarters.

“**Licensee**” is any person or entity holding a license from the Commission to engage in racing or a regulated activity.

“**Maiden**” is a stallion, mare or gelding that has never won a heat or race at the gait at which it is entered to start and for which a purse is offered; provided, however, that other

TITLE 3 AGRICULTURE DELAWARE ADMINISTRATIVE CODE

3

provisions of these Rules notwithstanding, races and/or purse money awarded to a horse after the 'Official Sign' has been posted shall be considered winning performance and effect status as a maiden, and in such cases a horse placed first by virtue of disqualification shall acquire a win race record only if such horse's actual time can be determined by photo finish or electronic timing in accordance with the provisions of Rule 7.2.1.

"Match Race" is a race between two or more horses under conditions agreed to by their owners.

"Matinee Race" is a race in which no entrance fee is charged and where the premiums, if any, are other than money.

"Meeting" is the specified period and dates each year during which an association is authorized to conduct racing and/or pari-mutuel wagering by approval of the Commission.

"Minus Pool" occurs when the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool.

"Mutuel Field" is two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

"Net Pool" is the amount of gross ticket sales less refundable wagers and statutory commissions.

"No Contest" is a race canceled for any reason by the stewards/judges.

"Nomination" is the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

"Objection" is a verbal claim of foul in a race lodged by the horse's driver.

"Off Time" is the moment at which, on the signal of the official starter, the starting gate is opened, officially dispatching the horses in each contest.

"Official Order of Finish" is the order of finish of the horses in a contest as declared official by the judges.

"Official Starter" is the official responsible for dispatching the horses for a race.

"Official Time" is the elapsed time from the moment the first horse crosses the timing beam until the first horse crosses the finish line.

"Optional Claiming Race" is a conditioned race in which a horse may be entered for a stated claiming price. In the case of horses entered to be claimed in such a race, the race shall be considered, for the purpose of these rules, a claiming race. In the case of horses not entered to be claimed in such a race, the race shall be considered a conditioned race.

"Overnight Race" is a contest for which declarations close not more than seven days, omitting Sunday, before the date on which it will be contested. In the absence of conditions or notice to the contrary, declarations must close not later than 6:00 p.m. of the day preceding the race.

"Owner" is a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

"Paddock" is an enclosure in which horses scheduled to compete in a contest are confined prior to racing.

"Pari-Mutuel System" is the manual, electro-mechanical or computerized system and all software (including the totalisator, account betting system and off-site betting equipment) that is used to record bets and transmit wagering data.

TITLE 3 AGRICULTURE DELAWARE ADMINISTRATIVE CODE

4

“**Pari-Mutuel Wagering**” is a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning horses.

“**Patron**” is a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

“**Person**” is any individual, partnership, corporation or other association or entity.

“**Post Position**” is the preassigned position from which a horse will leave the starting gate.

“**Post Time**” is the scheduled starting time for a contest.

“**Primary Laboratory**” is a facility designated by the Commission for the testing of samples.

“**Principal Trainer**” is the trainer listed on the race program.

“**Programmed**” means listed in the official program made available for sale or distribution to the public.

“**Protest**” is a written complaint alleging that a horse is ineligible to race.

“**Purse**” is the total cash amount for which a race is contested.

“**Race**” is a contest between horses at a licensed meeting.

“**Requalifying Test**” An analysis of any biological substance procured from a horse that has been deemed ineligible to perform in any race or official workout due to a violation of DHRC medication rules. A requalifying test is taken when a horse is out-of-competition and/or on the Stewards and/or Veterinarians list. A requalifying test is taken with the intent of providing a negative test of prohibited substances or to show compliance with permissible thresholds.

“**Required Days Off**” horses restricted from racing for a specified number of days will start their days the day of the scheduled race.

“**Restricted Area**” is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access.

“**Result**” is that part of the official order of finish used to determine the pari-mutuel payout of pools for each individual contest.

“**Rules**” are the Rules of the Delaware Harness Racing Commission.

“**Satisfactory Charted Line**” is one that meets the standards at the track at which a horse participates.

“**Scoring**” is the preliminary practice given to horses after the post parade and prior to being called to line up for the start of a race by the official starter.

“**Scratch**” is the act of withdrawing an entered horse from a contest after the closing of entries.

“**Simulcast**” is the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

“**Split Sample Laboratory**” is a facility approved by the Commission to test split samples.

“**Stakes Race**” is a race which will be contested in a calendar year subsequent to the closing of nominations.

“**Sulky**” is a dual wheel racing vehicle with dual shafts not exceeding the height of the horse's withers. Shafts must be hooked separately on each side.

“**Totalisator**” is the system used for recording, calculating, and disseminating information about ticket sales, wagers, odds and payoff prices to patrons at a pari-mutuel wagering facility.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

5

"Trainer" is an individual who receives any compensation, either directly or indirectly, for training the horse or who performs any of the criteria in subsections 5.3.1.3.1 through 5.3.1.3.5. The trainer(s) is (are) the person or persons to whom trainer-related penalties shall apply in the event of a rule violation. In addition, there is a presumption that domestic partners that are individually licensed by the Commission will both be considered as trainer.

"Tubing" is the administration of any substance via a naso-gastric tube.

"Veterinarian" is a veterinary practitioner licensed by the State of Delaware under Title 24, Chapter 33 of the Delaware Code and authorized to practice at the race track.

"Veterinary Technician" is a technician licensed by the State of Delaware under Title 24, Chapter 33 of the Delaware Code and authorized to practice at the race track. Veterinary Technicians are authorized by the Commission to administer Bleeder medications and take samples of blood and urine, both under the supervision of a veterinarian.

1 DE Reg. 501 (11/01/97)

2 DE Reg. 1068 (01/01/99)

5 DE Reg. 832 (10/01/01)

11 DE Reg. 1050 (02/01/08)

22 DE Reg. 47 (07/01/18)

22 DE Reg. 467 (12/01/18)

23 DE Reg. 556 (01/01/20)

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

6

3.0 Officials

3.1 General Provisions

3.1.1 Racing Officials. Officials at a race meeting may include the following, as determined by the Commission:

- 3.1.1.1 Board of Judges;
- 3.1.1.2 Racing Secretary;
- 3.1.1.3 Paddock Judge;
- 3.1.1.4 Horse Identifier / Equipment Checker;
- 3.1.1.5 Starter;
- 3.1.1.6 Charter / Program Director;
- 3.1.1.7 Timer / Photo Finish Technician;
- 3.1.1.8 Patrol Judge;
- 3.1.1.9 ~~Chief~~-DHRC Veterinarian and Veterinary Technician
- 3.1.1.10 Bleeder Medication Veterinarian and Veterinary Technician;
- 3.1.1.11 Chief DHRC Investigator; and
- 3.1.1.12 Administrator of Racing
- 3.1.1.13 Any other person designated by the Commission.

3.1.2 Eligibility. To qualify as a racing official the appointee must be licensed by the Commission after a determination that he:

- 3.1.2.1 is of good moral character and reputation;
- 3.1.2.2 is experienced in and/or knowledgeable of harness racing;
- 3.1.2.3 is familiar with the duties to which he is appointed and with the Commission's rules and regulations;
- 3.1.2.4 possesses the mental and physical capacity to perform his duties;
- and
- 3.1.2.5 is not under suspension or ejection by the U.S.T.A., Standardbred Canada or any racing jurisdiction.

3.1.3 Approval and Licensing. The Commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing.

3.1.4 Prohibited Practices. Racing officials and their assistants shall not engage in any of the following activities while serving in an official capacity at a race meeting:

- 3.1.4.1 participate in the sale or purchase, or own any horse racing at the meeting;
- 3.1.4.2 sell or solicit horse insurance on any horse racing at the meeting;
- 3.1.4.3 be licensed in any other capacity without permission of the Commission;
- 3.1.4.4 wager on the outcome of any live or simulcast race;

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

7

- 3.1.4.5 refuse to take a breath analyzer test or submit to a blood or urine sample when directed by the Commission or its designee; or
- 3.1.4.6 perform their official duties on any day in which any horse is entered or races in any live race at the Association grounds that is owned, trained, driven, or groomed, by the official's spouse, parent, child, or sibling without the permission of the Commission. If repeated such conflicts interfere with the official's performance of his normal duties, or with any other official's performance of his official duties, then the Commission shall approve another person to replace the official with the familial conflict.
- 3.1.5 Report of Violations. Racing officials and their assistants shall report immediately to the Presiding Judge or judges every observed violation of these rules and of the laws of this jurisdiction governing racing.
- 3.1.6 Complaints Against Officials. Any formal complaint against a racing official other than a judge shall be made to the Presiding Judge in writing and signed by the complainant. All such complaints shall be reported to the Commission by the Presiding Judge, as appropriate, together with a report of the action taken or the recommendation of the Presiding Judge. Formal complaints against the Presiding Judge or any judge shall be made in writing to the Commission and signed by the complainant.
- 3.1.7 Appointment
 - 3.1.7.1 No person shall be appointed to hold any official position who has any official relation to any person employed by a corporation or Association conducting harness racing within this State. No Commissioner, racing official, or judge whose duty is to insure that the rules and regulations of the Commission are complied with shall bet on any race during any live racing program nor have any financial or pecuniary interest in the outcome of any race regulated by the Commission. All employees appointed under 3 **Del.C.** §10007(a-c) shall serve at the pleasure of the Commission and are to be paid a reasonable compensation.
 - 3.1.7.2 The Commission shall appoint or approve the Board of Judges at each harness race meeting. The Commission may appoint such officials on an annual basis. In addition to any minimum qualifications promulgated by the Commission, all applicants for the positions on the Board of Judges must possess a USTA license and be fully accredited by a recognized university approved by the Commission. An applicant for the position of race judge must also have been previously employed as a steward, patrol judge, or other racing official at a harness racing meeting for a period of not less than forty-five days during three of the last five years, or have at least five years of experience as a licensed driver who has also served not less than one year as a licensed racing official at a harness racing meeting or have ten years of experience as a licensed harness racing trainer who has served not less than one year as a licensed racing official at a harness racing meeting.
 - 3.1.7.3 The Commission may appoint such officers, clerks, stenographers, inspectors, racing officials, veterinarians, and such other employees as it deems necessary, consistent with the purposes of 3 **Del.C.** Chapter 100.
- 3.1.8 Appointment of Presiding Judge. Should the Presiding Judge or any judge be absent at race time, the Presiding Judge, or, in his absence the remaining judge(s) shall appoint a deputy for the Presiding Judge or judge(s). If a deputy judge is appointed, the Commission shall be notified immediately by the Presiding Judge or remaining judges.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

8

3.2 Board of Judges

3.2.1 General Authority

3.2.1.1 The Board of Judges for each meeting shall be responsible to the Commission for the conduct of the race meeting in accordance with the laws of this jurisdiction and these rules.

3.2.1.2 The Board of Judges shall enforce these rules and the racing laws of the State of Delaware.

3.2.1.3 The Presiding Judge's authority includes supervision of all racing officials, licensed personnel, other persons responsible for the conduct of racing and patrons, as necessary to ensure compliance with these rules.

3.2.1.4 The Board of Judges shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

3.2.1.5 The Board of Judges have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules.

3.2.1.6 The Presiding Judge shall be a representative of the Commission at all race meetings which the Commission may direct such Presiding Judge to attend. The Presiding Judge shall be the senior officer at such meetings and, subject to the control and direction of the Commission, shall have general supervision over the racing officials, medication program and drug-testing officials, and all other employees and appointees of the Commission employed at such race meet or meetings. The Presiding Judge shall, subject to the general control of the Commission, monitor the conduct of the racing and the pari-mutuel department, and supervise the testing of horses and drivers. The Presiding Judge at all times shall have access to all parts of the Association grounds, including the racecourse, physical plant and grounds. Upon instruction from the Commission, the Presiding Judge shall conduct hearings and investigations, and report his findings to the Commission. The Presiding Judge shall act for the Commission in all matters requiring its attention, to receive from all persons having knowledge thereof information required by the Commission and to perform all other duties for the compliance of the rules and regulations of the Commission and the laws of the State of Delaware.

3.2.2 Period of Authority. The Board of Judge's period of authority shall commence five (5) business days prior to the beginning of each race meeting and shall terminate with completion of their official business pertaining to the meeting.

3.2.3 Disciplinary Action

3.2.3.1 The Board of Judges shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

3.2.3.2 The Board of Judges shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

3.2.3.3 The Board of Judges may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

3.2.3.4 The Board of Judges may at any time inspect license documents, registration papers and other documents related to racing.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

9

- 3.2.3.5 The Board of Judges have the power to administer oaths and examine witnesses.
- 3.2.3.6 The Board of Judges shall consult with the Chief DHRC Veterinarian and/or the Commission chemist to determine the nature and seriousness of a laboratory finding or an alleged medication violation.
- 3.2.3.7 The Board of Judges may impose, but are not limited to, any of the following penalties on a licensee for a violation of these rules:
- 3.2.3.7.1 The Board of Judges may take any appropriate actions against any horse for a violation or attempted violation of these rules.
- 3.2.3.7.2 The Board of Judges may suspend a license; or they may impose a fine in accordance with these Rules for each violation; or they may suspend and fine; or they may order that a person be ineligible for licensing. If a driver is given a driving suspension of five (5) days or less by the Board of Judges in Delaware, then such penalty shall commence on the first day after the driver has fulfilled all of the driving obligations programmed in the State of Delaware at the time the penalty is assessed.
- 3.2.3.8 The Board of Judge's ruling shall not prevent the Commission from imposing a more or less severe penalty.
- 3.2.3.9 The Board of Judges may refer any matter to the Commission and may include recommendations for disposition. The absence of a Board of Judge's referral shall not preclude Commission action in any matter.
- 3.2.3.10 Purses, prizes, awards, and trophies shall be redistributed if the Board of Judges or Commission order a change in the official order of finish.
- 3.2.3.11 All fines imposed by the Board of Judges shall be paid to the Commission within ten (10) days after the ruling is issued, unless otherwise ordered.
- 3.2.4 Protests, Objections and Complaints. The Board of Judges shall investigate promptly and render a decision in every protest made to them. They shall maintain a record of all protests. The Board of Judges shall file daily with the Commission a copy of each protest, objection or complaint and any related ruling. All protests must be in writing and lodged with the Board of Judges not later than forty-eight (48) hours after the race in question.
- 3.2.5 Judges' Presence. One judge shall be present in the stand thirty (30) minutes prior to the race to observe and the others shall be present no less than fifteen (15) minutes prior to the race, during the contesting of the race and fifteen (15) minutes after the finish.
- 3.2.6 Order of Finish for Pari-Mutuel Wagering
- 3.2.6.1 The judges shall determine the official order of finish for each race in accordance with the rules of the race (see Rule 7.0).
- 3.2.6.2 The decision of the judges as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the contesting of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.
- 3.2.7 Cancel Wagering. The Board of Judges has the authority to cancel wagering and order refunds where applicable on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

10

- 3.2.8 Steward's List
- 3.2.8.1 The judges shall maintain a Steward's List of the horses which are ineligible to be entered in a race.
- 3.2.8.2 A horse that is unfit to race because it is dangerous, unmanageable or unable to show a performance to qualify for races at the meeting, scratched as a result of a high blood gas test, or otherwise unfit to race at the meeting may be placed on the Steward's List by the Presiding Judge and declarations and/or entries on the horse shall be refused. The owner or trainer shall be notified of such action and the reason shall be clearly stated. When any horse is placed on the Steward's List, the Program Director shall make a note on the electronic eligibility certificate of such horse, showing the date the horse was put on the Steward's List the reason and the date of removal if the horse has been removed.
- 3.2.8.3 Following an examination all horses scratched by a veterinarian for either lameness or sickness will be put on the Steward's List and can not race for at least seven (7) days from the date of the scratched race. Entries will be accepted during this seven (7) day period for a race to be contested after the seventh day.
- 3.2.8.3.1 Following an examination Veterinarians may put a horse on the Steward's List for sickness or lameness for more than seven (7) days if necessary. In that instance, the horse may not race until proscribed number of days has expired. Entries will be accepted during this period for a race to be contested after the proscribed number of days has expired.
- 3.2.8.4 No Presiding Judge or other official at a race meeting shall have the power to remove from the Steward's List and accept as an entry any horse which has been placed on a Steward's List and not subsequently removed for the reason that he it is dangerous or unmanageable. Such meetings may refuse declarations and/or entries on any horse that has been placed on the Steward's List and has not been removed.
- 3.2.8.5 No entry or declaration to start shall be accepted by any Association in this jurisdiction without having had a negative official test for equine infectious anemia within twelve (12) months.
- 3.2.8.6 The judges may put any horse on the Steward's List for performance when such horse shows a reversal of form or does not race near its own capabilities. Such horse shall qualify in a time comparable to its known capabilities from one to three times, at the discretion of the judges, before being allowed to start.
- 3.2.8.7 Any horse put on the Steward's List as unmanageable or dangerous must qualify in a satisfactory manner for the judges at least two times.
- 3.2.8.8 The judges may put any horse on the Steward's List for being noncompetitive or unfit to race at the meeting.
- 3.2.8.9 The judges may place a horse on the Steward's List when there exists a question as to the exact identification, ownership or management of said horse.
- 3.2.8.10 A horse which has been placed on the Steward's List because of questions as to the exact identification or ownership of said horse, may be

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

11

removed from the Steward's List when, in the opinion of the judges, proof of exact identification and/or ownership has been established.

- 3.2.8.11 A horse may not be released from the Steward's List without the permission of the judges.
- 3.2.9 List of Nerved Horses. The judges shall maintain a list of nerved horses participating at the race meet and shall post this list in the Race Office.
- 3.3 Racing Secretary
 - 3.3.1 General Authority. The Racing Secretary is responsible for setting the conditions for each race of the race meeting, regulating the nomination of entries and determining the amounts of purses and to whom they are due. The Racing Secretary shall check and verify the eligibility of all horses entered.
 - 3.3.2 Race Information. The Racing Secretary shall be familiar with the age, class and competitive ability of all horses racing at the meeting.
 - 3.3.3 Classifications. The Racing Secretary shall classify horses in accordance with these rules.
 - 3.3.4 Listing of Horses. The Racing Office shall:
 - 3.3.4.1 examine all entry forms and declarations to verify information as set forth therein; and
 - 3.3.4.2 select the horses to start and the also eligible horses from the declarations in accordance with these rules.
 - 3.3.4.3 provide the listing of horses in the daily program.
 - 3.3.5 Nominations and Declarations. The Racing Secretary shall examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.
 - 3.3.6 Conditions. The Racing Secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the Commission and be posted in the Racing Secretary's office.
 - 3.3.7 Posting of Entries. Upon completion of the draw each day, the Racing Secretary shall post a list of entries in a conspicuous location in his office and make the list available to the media.
 - 3.3.8 Winnings
 - 3.3.8.1 For the purpose of establishing conditions, winnings shall be considered to include all monies and prizes won up to the time of the start of a race.
 - 3.3.8.2 Winnings during the year shall be calculated by the Racing Secretary from the preceding January 1.
 - 3.3.9 Cancellation of a Race. In case of unfavorable weather or other unavoidable cause, Associations, upon notifying of the Presiding Judge may postpone or cancel races.
- 3.4 Paddock Judge
 - 3.4.1 General Authority. Under the direction and supervision of the Presiding Judge, the Paddock Judge shall:
 - 3.4.1.1 Ensure that all horses entered in a heat or dash are on the racetrack at the time designated by the Presiding Judge to be formed in a parade

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

12

line; that such horses are attended by their drivers unless specifically excused by the Paddock Judge; that all horses in heat or race parade from the paddock upon the track and before the grandstand not later than five (5) minutes before Post Time; and that drivers not engage in conversation during the post parade. A horse failing to parade without being excused by the Paddock Judge may be scratched from the race or its driver or trainer may be penalized;

- 3.4.1.2 Supervise the Horse Identifier/Equipment Checker;
- 3.4.1.3 Supervise the paddock gate operators;
- 3.4.1.4 Ensure that all horses are in the paddock at the time prescribed by the Presiding Judge, but in any event not less than one hour but not more than two hours prior to post time of the race in which the horse is to compete. Except for warm-up trips, no horse shall leave the paddock until called to the post;
- 3.4.1.5 Ensure that no driver or groom once admitted to the paddock or receiving barn shall leave the same other than to warm up said horse or other race related activity until such race, or races, for which he was admitted is contested; provided, however, that in the event of an emergency, a license may leave the paddock but only with the permission of the Paddock Judge, in which case the Paddock Judge shall maintain a written record thereof, which shall be delivered to the Presiding Judge. Only a licensed owner or trainer who has another horse racing in a later race, shall return to the paddock until all races of that program have been completed;
- 3.4.1.6 Direct the activities of the paddock blacksmith;
- 3.4.1.7 Ensure that only persons properly authorized by the Licensing Office are admitted in the paddock, including:
 - 3.4.1.7.1 Owners of horses competing on the date of the race and whose horses are in the paddock with the exception of all owners of registered stables;
 - 3.4.1.7.2 Trainers of horses competing on the date of the race and whose horses are in the paddock;
 - 3.4.1.7.3 Drivers of horses competing on the date of the race and whose horses are in the paddock;
 - 3.4.1.7.4 No more than two grooms of horses competing on the date of the race and whose horses are in the paddock;
 - 3.4.1.7.5 Officials whose duties require their presence in the paddock or receiving barn; and
 - 3.4.1.7.6 Ensure that no more than two owners of a registered stable, other than the driver, shall be entitled to admission to the paddock on any racing day, except by permission of the Presiding Judge;
- 3.4.1.8 Notify the Presiding Judge of any change in racing equipment or shoes before the race;
- 3.4.1.9 Inspect and supervise the maintenance of all emergency equipment kept in the paddock;
- 3.4.1.10 Notify the judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race;

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

13

- 3.4.1.11 Supervise and maintain the cleanliness of the paddock; and
- 3.4.1.12 Supervise the conduct of all persons in the paddock.
- 3.4.2 Report to the Presiding Judge. The Paddock Judge shall:
 - 3.4.2.1 Immediately notify the Presiding Judge of anything that could in any way change, delay or otherwise affect the racing program;
 - 3.4.2.2 Report to the Presiding Judge any observed cruelty to a horse; and
 - 3.4.2.3 Any other violations of these rules.
- 3.5 Horse Identifier / Equipment Checker
 - 3.5.1 General Authority. The Horse Identifier / Equipment Checker shall be present for each race. The duties of the Horse Identifier / Equipment Checker are:
 - 3.5.1.1 Maintain a listing of all equipment worn, including shoes, and the tattoo or freeze brand, or Micro Chip number for each horse racing at the meeting;
 - 3.5.1.2 Each time a horse races, identify the horse by checking the lip tattoo or freeze brand, or Micro Chip;
 - 3.5.1.3 Compare the type and condition of equipment actually being used by each horse for each race with the approved equipment listed; and
 - 3.5.1.4 Maintain and ensure the proper working condition of Micro Chip readers.
 - 3.5.2 Report Violations. The Horse Identifier / Equipment Checker shall report to the Paddock Judge immediately any discrepancies or faulty equipment discovered by the investigations specified in this Rule, which findings are to be reported immediately to the Presiding Judge. Such discrepancies shall be forwarded to the USTA. The Presiding Judge's ruling in these matters is final.
- 3.6 Starter
 - 3.6.1 General Authority
 - 3.6.1.1 The Starter is responsible to provide a fair start for each race.
 - 3.6.1.2 The Starter shall be an employee or contractor of the association.
 - 3.6.1.3 The Starter shall ensure that the driver is cognizant of and capable of performing all required procedures.
 - 3.6.2 Report Violations. The Starter shall report violations of these rules occurring at the start of a race to the judges.
 - 3.6.3 Disciplinary Action. The Starter shall have authority to assess fines and to suspend the license of drivers for any violation of these rules from the formation of the parade until the word "Go" is given.
 - 3.6.4 Schooling and Qualifying. The Starter shall school horses as may be necessary and shall prepare a list of horses not qualified to start, which shall be delivered to the judges and entered on the Steward's List. The Steward's List shall be posted in the Racing Secretary's office with the list of horses not qualified to start.
- 3.7 Charter / Program Director
 - 3.7.1 General Authority. The Charter is responsible for providing a complete and accurate chart of each race. An accurate Judge's Book shall incorporate a chart of each race which shall include the following:

TITLE 3 AGRICULTURE DELAWARE ADMINISTRATIVE CODE

14

- 3.7.1.1 horse's name and electronic eligibility certificate number;
- 3.7.1.2 driver's name and USTA membership number, and trainer's name and USTA membership number;
- 3.7.1.3 date and place of the race;
- 3.7.1.4 track code;
- 3.7.1.5 track condition and temperature;
- 3.7.1.6 type of race (trot or pace);
- 3.7.1.7 classification of race;
- 3.7.1.8 distance other than a mile;
- 3.7.1.9 fractional times of the leading horse, including the race time;
- 3.7.1.10 post position, position at the 1/4-mile, the 1/2-mile and the 3/4-mile poles and at the head of the stretch with lengths behind the leader and finish position with lengths behind the winner;
- 3.7.1.11 official order of finish;
- 3.7.1.12 individual time of each horse;
- 3.7.1.13 closing dollar odds (with favorite designated by an asterisk);
- 3.7.1.14 the standard symbols for breaks, park outs free legged pacers, and hobbled trotters where applicable;
- 3.7.1.15 the standard symbols for medications, where applicable;
- 3.7.1.16 in claiming races, the price for which the horse is entered to be claimed;
- 3.7.1.17 mutual data to include the payoff prices for win, place, show, daily double, exacta, trifecta, superfecta, and any other exotic wager;
- 3.7.1.18 notations of placings, disqualifications and claimed horses;
- 3.7.1.19 the names and addresses of owners; and
- 3.7.1.20 notations of scratched or ruled out horses.
- 3.7.2 Other Duties. The Charter / Program Director shall also be responsible for keeping and verifying the Judge's Book and eligibility certificates provided by the U.S.T.A. / Standardbred Canada and recording therein all required information.
- 3.7.3 The Charter / Program Director is also responsible for furnishing the public complete and accurate past performance information.
- 3.8 Official Timer / Photo Finish Technician
 - 3.8.1 General Authority. The Timer shall accurately record the time elapsed between the start and finish of each race.
 - 3.8.2 Timing Procedure. The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.
 - 3.8.3 Timing Races
 - 3.8.3.1 In every race, the time of each heat shall be accurately recorded by two timers or an approved electrical timing device, in which case, there shall be one timer.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

15

- 3.8.3.2 Times of heats shall be recorded in minutes, seconds and fifths of a second.
- 3.8.3.3 Immediately following each heat, the elapsed time of the heat shall be publicly announced and/or posted on the tote board.
- 3.8.3.4 No unofficial timing shall be announced, posted or entered into the official record.
- 3.8.4 Error in Reported Time
 - 3.8.4.1 In circumstances involving an error in timing, no time shall be announced, posted or recorded for that heat.
 - 3.8.4.2 In any case of alleged error regarding a horse's official time, the time in question shall not be changed to favor the horse or its owner, except upon the sworn statement of the judges and official timers who officiated in the race.
- 3.9 Patrol Judge
 - 3.9.1 General Authority. The Patrol Judge(s), when utilized, is responsible for observing the race and reporting information concerning the race to the judges. If the track's video replay system is deemed adequate by the Commission, use of patrol judges is optional.
- 3.10 Commission Veterinarian
 - 3.10.1 General Authority. The Commission Veterinarian shall:
 - 3.10.1.1 be appointed by the Commission;
 - 3.10.1.2 possess a Delaware Veterinarian License;
 - 3.10.1.3 recommend to the judges any horse deemed unfit to race following an examination;
 - 3.10.1.4 place horses on the Veterinarian's List, when necessary, and remove horses from the Veterinarian's List;
 - 3.10.1.5 place horses on the Bleeder List and remove horses from the Bleeder List;
 - 3.10.1.6 maintain a continuing health and racing soundness record of each horse given a racing soundness inspection;
 - 3.10.1.7 supervise the taking of all specimens for testing according to procedures approved by the Commission;
 - 3.10.1.8 provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;
 - 3.10.1.9 report to the Commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;
 - 3.10.1.10 maintain all required records of postmortem examinations performed on horses which have died on Association grounds;
 - 3.10.1.11 review and make recommendations regarding Commission license applications of practicing veterinarians;
 - 3.10.1.12 cooperate with practicing veterinarians and other regulatory agencies to take measures to control communicable and/or reportable equine diseases;

TITLE 3 AGRICULTURE DELAWARE ADMINISTRATIVE CODE

16

- 3.10.1.13 supervise the periodic review of all horse papers under the jurisdiction of the Commission to ensure that all required tests and health certificates are current and properly filed in accordance with these rules; ~~and~~
- 3.10.1.14 be authorized to humanely euthanize any horse deemed to be so seriously injured that it is in the best interests of the horse to so ~~aet.~~; and
- 3.10.15 supervise the activities of Veterinary Technicians.
- 3.10.2 **Racing Responsibilities.** With respect to the conduct of each race, and each race meeting authorized by the Commission, the Commission Veterinarian shall:
 - 3.10.2.1 be available to inspect any horses and report on their condition as may be requested by the judges;
 - 3.10.2.2 inspect any horse when there is a question as to the physical condition of such horse;
 - 3.10.2.3 recommend scratching a horse to the judges if, in his/her opinion, the horse is physically incapable of exerting its best effort to win following an examination and communication of same to the trainer or his designee;
 - 3.10.2.4 inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his/her opinion as to the cause of the distress to the judges;
 - 3.10.2.5 refrain from directly treating or prescribing for any horse scheduled to participate during his term of appointment at any recognized meeting except in cases of emergency, accident or injury;
 - 3.10.2.6 refuse employment or payment, directly or indirectly, from any owner or trainer of a horse racing or intending to race in the State of Delaware while employed as a Commission Veterinarian;
 - 3.10.2.7 conduct soundness inspections on horses participating in races at the meeting;
 - 3.10.2.8 place horses on or remove them from the Veterinarian's List.
- 3.10.3 **Veterinarian's List.** The Commission Veterinarian shall maintain a list of all horses which he/she has determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or medical condition.
 - 3.10.3.1 A horse may be placed on the Veterinarian's List by a Commission Veterinarian for a prescribed number of days and then be allowed to race after those days have elapsed.
- 3.11 **Bleeder Medication Veterinarian**
 - 3.11.1 **General Authority.** The Bleeder Medication veterinarian shall:
 - 3.11.1.1 Fully cooperate and coordinate his/her duties, responsibilities, schedules and related functions with the Commission Veterinarian;
 - 3.11.1.2 Possess a Delaware Veterinarian License;
 - 3.11.1.3 Report to the State Furosemide (Salix) stall treatment area at least 30 minutes prior to the first scheduled Salix treatment;
 - 3.11.1.4 Record the name of the horse and the time that the Salix is administered, and denote "IV" or "IM", as appropriate;
 - 3.11.1.5 Report to the Paddock Judge any horse that fails to show, or is late to the State Salix stall;

**TITLE 3 AGRICULTURE
DELAWARE ADMINISTRATIVE CODE**

17

- 3.11.1.6 Administer Furosemide (Salix) to each horse on the Bleeder list, and administer Aminocaproic Acid in accordance with Rule 8.3.5. of these Rules;
 - 3.11.1.7 Collect fees for each injection at the time of administration; credit shall not be given at any time;
 - 3.11.1.8 Turn in the list of horses and times of administration to the Paddock Judge prior to leaving each race day; ~~and~~
 - 3.11.1.9 Report any unusual findings to the Paddock Judge without ~~delay-~~ delay; and
 - 3.11.1.10 Supervise the activities of Veterinary Technicians.
- 3.11.2 Bleeder List. With the approval of the Commission Veterinarian, the Bleeder Medication Veterinarian may recommend horses to be placed on and off the Bleeder List.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

18

4.0 Associations

4.1 General Duty

4.1.1 An Association, its officers, directors, officials and employees shall comply with the rules and orders of the Commission and judges.

4.1.2 An Association may request an exemption from a requirement in this chapter to utilize new technology or innovative construction or design of the racetrack facilities. The Commission may grant an exemption if it determines that:

4.1.2.1 the Association's proposal substantially satisfies the purpose of the requirement; and

4.1.2.2 the exemption is in the best interests of the race horses, the racing industry and the citizens of Delaware.

4.2 Financial Requirements

4.2.1 Insurer of the Race Meeting

4.2.1.1 Approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the Association's facilities or purse of any race.

4.2.1.2 In accordance with §10043 of the Act, an Association shall timely provide the Commission with a certificate of liability insurance, in an amount approved by the Commission, with premium prepaid. The insurance shall provide a minimum of medical expense coverage equal to the average daily purse account raced for at the previous meeting conducted by the Association.

4.2.1.3 An Association shall maintain in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in the Act and Commission rules.

4.2.1.4 An Association is responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Act and Commission rules and not otherwise.

4.2.1.5 An Association shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Act, Commission rules, Association rules and race conditions, and with any contractual arrangements with the horsemen's association recognized for purposes related to the allocation of purses, if applicable.

4.2.2 Financial Reports

4.2.2.1 The Commission may require periodic audits to determine that the Association has funds available to meet those distributions for the purposes required by the Act, Commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.

4.2.2.2 Pursuant to §10029(e) or §10055(a) of the Act, the Commission may require that the books, records and financial or other statements of any Association licensed under the provisions of the Act, or licensed to make, conduct and sell pools in accordance with Subchapter IV of the Act, shall be kept in such form or in such manner as the Commission prescribes.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

19

- 4.2.2.3 In accordance with §10030 of the Act, every licensed Association shall file with the Department of Finance, not later than four (4) months after the close of the Association's fiscal year, a statement, duly certified by an independent public accountant, of its receipts from all sources whatsoever during the fiscal year and of all expenses and disbursements, itemized in the manner and form directed by the Department of Finance, showing the net revenue from all sources derived by the licensee during the fiscal year covered by such statement.
- 4.2.2.4 Pursuant to §10029(e) or §10055(a) of the Act, the Commission may visit, investigate and place expert accountants and such other persons as it deems necessary, in the offices, tracks or places of business of any licensed Association, or in the office or place of business of any person or entity licensed to operate a pool, for the purpose of satisfying itself that the Commission's rules and regulations are strictly complied with. The salaries and expenses of such expert accountants or other persons shall be paid by the Association to whom they are assigned.
- 4.2.2.5 Any financial reports, or any other financial information, obtained pursuant to the Act or these rules shall not be disclosed as public information except as required by 29 **Del.C.** Ch. 100.
- 4.3 Facilities and Equipment
- 4.3.1 Facilities for Patrons and Licensees
- 4.3.1.1 An Association shall ensure that the public areas of the Association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.
- 4.3.1.2 An Association shall provide and maintain adequate restroom facilities for the patrons and licensees.
- 4.3.1.3 An Association shall provide an adequate supply of free drinking water.
- 4.3.1.4 An Association shall maintain all facilities on Association grounds to ensure the safety and cleanliness of the facilities at all times.
- 4.3.1.5 During a race performance, the Association shall provide:
- 4.3.1.5.1 a first aid room equipped with at least two beds and other appropriate equipment; and
- 4.3.1.5.2 the services of at least one certified emergency medical technician (EMT).
- 4.3.1.6 An Association shall provide a properly equipped ambulance, staffed with certified paramedics or EMTs, at any time the racetrack is open for racing. If the ambulance is being used to transport an individual, the Association may not conduct a race until the ambulance is replaced.
- 4.3.1.7 An Association shall provide adequate office space for the use of the judges and other Commission personnel as required by the Commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the Commission, after appropriate consideration has been given to the limitations of available space and/or other resources or infrastructure on the grounds of the Association.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

20

- 4.3.1.8 An Association shall promptly post Commission notices in places that can be easily viewed by patrons and licensees.
- 4.3.2 **Officials' Stands.** An Association shall provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Commission.
- 4.3.3 **Audio and Visual Equipment**
 - 4.3.3.1 An Association shall provide and maintain in good working order a communication system between the:
 - 4.3.3.1.1 judges' stand;
 - 4.3.3.1.2 racing office;
 - 4.3.3.1.3 tote room;
 - 4.3.3.1.4 paddock;
 - 4.3.3.1.5 test barn;
 - 4.3.3.1.6 starting gate;
 - 4.3.3.1.7 recording system locations;
 - 4.3.3.1.8 ~~veterinarian~~ Veterinarian and Veterinary Technician;
 - 4.3.3.1.9 track announcer;
 - 4.3.3.1.10 location of the ambulances (equine and human); and
 - 4.3.3.1.11 other locations and persons designated by the Commission.
 - 4.3.3.2 An Association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.
 - 4.3.3.3 An Association shall provide an electronic photo finish device to photograph, videotape or otherwise record visually the finish of each race and record the time of each horse in at least hundredths of a second. The location and operation of the photo finish devices must be approved by the Commission before its first use in a race. The Association shall promptly post a photograph of each photo finish for win, place or show in an area accessible to the public. The Association shall ensure that the photo finish devices are calibrated before the first day of each race meeting and at other times as required by the Commission. On request by the Commission, the Association shall provide, without cost, a print of a photo finish to the Commission. Photo finish prints of each race shall be maintained by the Association for not less than six months after the end of the race meeting, or such other period as may be requested by the judges or the Commission.
 - 4.3.3.3.1 It is the duty of the Presiding Judge to ensure that the photo finish camera is in proper working order before the start of the race. Whenever the judges use a photo to determine the order of finish it shall be displayed for public inspection.
 - 4.3.3.4 An Association shall provide for the use of the photo finish head numbers, saddle pads, and a starting gate, with approved backups.
 - 4.3.3.5 An Association shall provide a recording system approved by the Commission. Cameras must be located to provide clear panoramic and head-on

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

21

views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the judges' stand. The location and construction of recording system equipment supports must be approved by the Commission.

- 4.3.3.6 The judges may, at their discretion, direct the recording system operators to record the activities of any horses or persons handling horses prior to, during or following a race.
- 4.3.3.7 Races must be recorded by an adequate number of recording cameras, as approved by the Commission.
- 4.3.3.8 An Association shall, upon request, provide to the Commission, without cost, a copy of a recording of a race.
- 4.3.3.9 Recordings made prior to, during and following each race shall be maintained by the Association for not less than six months after the end of the race meeting, or such other period as may be requested by the judges or the Commission.
- 4.3.3.10 An Association shall provide a viewing area in which, on approval by the judges, an owner, trainer, driver or other interested individual may view a recording of a race.
- 4.3.3.11 Following any race in which there is an inquiry or objection, the Association shall display to the public on designated monitors the videotaped recorded replays of the incident in question which were utilized by the judges in making their decision.
- 4.3.4 Racetrack
 - 4.3.4.1 The surface of a racetrack must be designed, constructed and maintained to provide for the safety of the drivers and horses.
 - 4.3.4.2 Upon the request of the Commission, a licensed surveyor shall provide to the Commission a certified track measurement.
 - 4.3.4.3 Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail or other fixed marker.
 - 4.3.4.4 The surveyor's report must be approved by the Commission prior to the first race day of the meeting.
 - 4.3.4.5 An Association shall provide an adequate drainage system for the racetrack.
 - 4.3.4.6 An Association shall provide adequate equipment and personnel to maintain the track surface and appurtenances in a safe training and racing condition. The Association shall provide back-up equipment for maintaining the track surface.
- 4.3.5 Rails. The design and construction of rails, where used, must be approved by the Commission prior to the first race meeting at the track.
- 4.3.6 Starting Gates. During racing hours, an Association shall provide at least two operable starting gates, which have been approved by the Commission.
- 4.3.7 Distance Markers. An Association shall provide starting point markers and distance poles in a size and position that is clearly seen from the judges' stand.
- 4.3.8 Saddle Pad Colors

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

22

- 4.3.8.1 All extended pari-mutuel racetracks shall adopt the following color format for saddle pad colors for post positions in each race:
 - 4.3.8.1.1 Post Position One - Red
 - 4.3.8.1.2 Post Position Two - Blue
 - 4.3.8.1.3 Post Position Three - White
 - 4.3.8.1.4 Post Position Four - Green
 - 4.3.8.1.5 Post Position Five - Black
 - 4.3.8.1.6 Post Position Six - Yellow
 - 4.3.8.1.7 Post Position Seven - Pink
 - 4.3.8.1.8 Post Position Eight - Gray
 - 4.3.8.1.9 Post Position Nine - Purple
 - 4.3.8.1.10 Post Position Ten - Blue/Red
 - 4.3.8.1.11 Post Position Eleven - Light Blue
 - 4.3.8.1.12 Post Position Twelve - Red/White
- 4.3.8.2 All saddle pad numbers, with the exception of post positions three and five, shall be white with a black border. The saddle pad numbers for post positions three and five shall be solid black and solid white, respectively.
- 4.3.9 Lighting
 - 4.3.9.1 An Association shall provide lighting for the racetrack and the patron facilities that is adequate to ensure the safety and security of the patrons, licensees and horses. Lighting to ensure the proper operation of the videotape and photo finish equipment must be approved by the Commission.
 - 4.3.9.2 An Association shall provide adequate additional lighting in the stable area as required by the Commission.
 - 4.3.9.3 If an Association conducts racing at night, the Association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.
- 4.3.10 Equine Ambulance
 - 4.3.10.1 An Association shall provide an equine ambulance on Association grounds on each day that the racetrack is open for pari-mutuel and qualifying racing or training.
 - 4.3.10.2 The ambulance must be properly ventilated and kept at an entrance to the racing strip when not in use.
 - 4.3.10.3 The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be able to:
 - 4.3.10.3.1 navigate on the racetrack during all weather conditions; and
 - 4.3.10.3.2 transport a horse off the Association grounds.
 - 4.3.10.4 The ambulance must be equipped with:
 - 4.3.10.4.1 ramps to facilitate loading a horse;
 - 4.3.10.4.2 adequate means of loading a horse that is down;

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

23

- 4.3.10.4.3 a rear door;
- 4.3.10.4.4 a movable partition to initially provide more room to load a horse and to later restrict a horse's movement; and
- 4.3.10.4.5 a shielded area for the person who is attending to the horse.
- 4.3.10.5 An Association may not conduct a race unless an equine ambulance or an official veterinarian-approved substitute is readily available.
- 4.3.10.6 The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by the official veterinarian.
- 4.3.11 Receiving Area
 - 4.3.11.1 An Association shall provide a receiving area and paddock containing a sufficient number of stalls to accommodate all horses in to race for that day.
 - 4.3.11.2 An Association shall ensure that the paddock and receiving barns are kept clean and in good repair. Each paddock, including the receiving barn, shall include hot and cold water, be well-ventilated, have proper drainage and be constructed to be comfortable in all seasons.
 - 4.3.11.3 An Association shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area on a prompt and regular schedule.
- 4.3.12 Isolation Area
 - 4.3.12.1 An Association shall provide an isolation area for the care and treatment of a horse that is ordered isolated by the State veterinarian.
 - 4.3.12.2 The isolation area must be approved by the Presiding Judge.
- 4.3.13 Weather Equipment. An Association shall provide a consistent method whether by instrumentation or otherwise to obtain an appropriate means for measuring temperature. The Presiding Judge shall consult at least one member of the driver's committee by the third race to determine an allowance. The following guidelines shall be used in making this determination:
 - Temperature or Wind chill:
 - 32 degrees - 25 degrees (F) = 1 second allowance
 - 24 degrees - 15 degrees (F) = 2 second allowance
 - 14 degrees - 0 degrees (F) = 3 second allowance
 - Other relevant factors such as precipitation shall also be considered.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

24

5.0 Licensees

5.1 General Provisions

5.1.1 Licenses Required

5.1.1.1 A person shall not participate in pari-mutuel racing under the jurisdiction of the Commission without a valid license issued by the Commission. License categories shall include the following and others as may be established by the Commission:

5.1.1.1.1 racing participants and personnel (including owner, authorized agent, trainer, assistant trainer, driver, veterinarian, veterinary assistant, horseshoer and stable employees);

5.1.1.1.2 racing officials (including the judges, racing secretary, paddock judge, horse identifier and equipment checker, official starter, official charter, official timer, photo finish technician, patrol judge, program director, ~~Commission Veterinarian(s)~~ Veterinarians and ~~other veterinarians~~ Veterinary Technicians);

5.1.1.1.3 persons employed by the association, or employed by a person or concern contracting with or approved by the association or Commission to provide a service or commodity, which requires their presence in a restricted area; and

5.1.1.1.4 all Commission employees.

5.1.1.2 Persons required to be licensed shall submit a completed application on forms furnished by the Commission and accompanied by the required fee, which shall be determined by the Commission.

5.1.1.3 License applicants may be required to furnish to the Commission a set(s) of fingerprints and a recent photograph and may be required to be re-fingerprinted or re-photographed periodically as determined by the Commission.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

25

8.0 Veterinary Practices, Equine Health Medication

8.1 General Provisions

The purpose of this Rule is to protect the integrity of horse racing, to ensure the health and welfare of race horses and to safeguard the interests of the public and the participants in racing.

8.2 Veterinary Practices

8.2.1 Veterinarians Under Authority of Commission Veterinarian

Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are subject to these Rules, which shall be enforced under the authority of the Commission Veterinarian. Without limiting the authority of the Presiding Judge to enforce these Rules, the Commission Veterinarian may recommend to the Presiding Judge or the Commission the discipline which may be imposed upon a veterinarian who violates the rules.

8.2.2 Treatment Restrictions

8.2.2.1 Except as otherwise provided by ~~this subsection~~ these rules, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the Commission.

8.2.2.2 This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

8.2.2.2.1 a recognized non-injectable nutritional supplement or other substance approved by a Commission Veterinarian;

8.2.2.2.2 a non-injectable substance on the direction or by prescription of a veterinarian licensed to practice veterinary medicine in the State of Delaware; or

8.2.2.2.3 a non-injectable non-prescription medication or substance.

8.2.2.3 No person shall possess a hypodermic needle, syringe or injectable of any kind on association premises, unless otherwise approved by the Commission. At any location under the jurisdiction of the Commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the Commission. If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that person may request permission of the Board of Judges and/or the Commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the Board of Judges and/or the Commission.

8.2.2.4 Therapeutic Electronic Devices, Shockwave Therapy/Instruments

8.2.2.4.1 The use of Therapeutic Electronic Devices or shock wave therapy shall not be permitted unless the following conditions are met:

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

26

8.2.2.4.1.1 No licensee is permitted to possess or to use Therapeutic Electronic Devices or shock wave therapy machines/instruments on association premises.

8.2.2.4.1.2 Any horse treated with shock wave therapy shall not be permitted to race for a minimum of ten (10) days following treatment (the day of treatment shall be considered the first day in counting the number of days). Any horse treated with Therapeutic Electronic Devices or shock wave therapy shall be placed on the Commission Veterinarian's list.

8.2.2.4.1.3 All Therapeutic Electronic Devices or shock wave therapy treatments must be reported by the trainer of record to the official Commission veterinarian on the prescribed form not later than the time prescribed by the official Commission veterinarian.

8.2.2.4.2 A Trainer, Veterinarian, or other person, who has been found to have violated any of the above provisions of this Rule shall be subject to appropriate disciplinary action by the Judges and/or Commission.

8.2.2.4.3 Definitions: The following terms and words used in this Rule are defined as:

8.2.2.4.3.1 Therapeutic Electronic Devices shall mean any device that requires electricity or battery power, including but not limited to: therapeutic ultrasound, therapeutic laser or other similar devices. Shock Wave Therapy shall mean all Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments and any other treatments determined to pose similar risks by the Commission Veterinarian.

8.3 Medications and Foreign Substances. Foreign substances shall mean all substances, except those which exist naturally in the untreated horse at normal physiological concentration, and shall include all narcotics, stimulants, depressants or other drugs or medications of any type. Except as specifically permitted by these rules, no foreign substance shall be carried in the body of the horse at the time of the running of the race. Upon a finding of a violation of these medication and prohibited substances rules, the Presiding Judge or other designee of the Commission shall consider the classification level of the violation as listed at the time of the violation by the DHRC Uniform Classification Guidelines found in subsection 8.3.1 of this section, and may consider the most recent recommendations by the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International. In addition, the Presiding Judge or other designee of the Commission shall consider all other relevant available evidence including but not limited to: i) whether the violation created a risk of injury to the horse or driver; ii) whether the violation undermined or corrupted the integrity of the sport of harness racing; iii) whether the violation misled the wagering public and those desiring to claim the horse as to the condition and ability of the horse; iv) whether the violation permitted the trainer or licensee to alter the performance of the horse or permitted the trainer or licensee to gain an advantage over other horses entered in the race; v) the amount of the purse involved in the race in which the violation occurred. The Presiding Judge may impose penalties and disciplinary measures consistent with the recommendations contained in subsection 8.3.2 of this section.

8.3.1 DHRC Uniform Classification Guidelines. The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the Commission and the racing secretary entry areas.

8.3.1.1 Class 1. Opiates, opium derivatives, synthetic opiates, psychoactive drugs, amphetamines and U.S. Drug Enforcement Agency (DEA)

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

27

scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the race horse and their pharmacological potential for altering the performance of a race is very high.

8.3.1.2 Class 2. Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the race horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a race horse. The following groups of drugs are in this class:

- 8.3.1.2.1 Opiate partial agonist, or agonist-antagonists;
- 8.3.1.2.2 Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;
- 8.3.1.2.3 Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);
- 8.3.1.2.4 Drugs with prominent CNS depressant action;
- 8.3.1.2.5 Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;
- 8.3.1.2.6 Muscle blocking drugs which have a direct neuromuscular blocking action;
- 8.3.1.2.7 Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and
- 8.3.1.2.8 Snake venoms and other biologic substances which may be used as nerve blocking agents.

8.3.1.3 Class 3. Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a race horse. The following groups of drugs are in this class:

- 8.3.1.3.1 Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);
- 8.3.1.3.2 A local anesthetic which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);
- 8.3.1.3.3 Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;
- 8.3.1.3.4 Primary vasodilating/hypotensive agents; and
- 8.3.1.3.5 Potent diuretics affecting renal function and body fluid composition.

8.3.1.4 Class 4. This category is comprised primarily of therapeutic medications routinely used in race horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

29

such as anti-ulcer drugs, certain antiallergic drugs, and the anticoagulant drugs. Cobalt is also included, along with its own accompanying penalty recommendations.

8.3.2 Penalty Recommendations. The following penalties and disciplinary measures may be imposed for violations of these medication and prohibited substances rules:

8.3.2.1 Class 1 - in the absence of extraordinary circumstances, a minimum license revocation of eighteen months and a minimum fine of \$5,000, and a maximum fine up to the amount of the purse money for the race in which the infraction occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.2 Class 2 - in the absence of extraordinary circumstances, a minimum license revocation of nine months and a minimum fine of \$3,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.3 Class 3 - in the absence of extraordinary circumstances, a minimum license revocation of ninety days, and a minimum fine of \$3,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for cost of the drug testing.

8.3.2.4 Class 4 - in the absence of extraordinary circumstances, a minimum license revocation of thirty days, and a minimum fine of \$2,000, and a maximum fine of up to the amount of the purse money for the race in which the violation occurred, forfeiture of the purse money, and assessment for the cost of the drug testing.

8.3.2.5 Class 5 - Zero to 15 days suspension with a possible loss of purse and/or fine and assessment for the cost of the drug testing.

8.3.2.5.1 Cobalt detected at or above 25 ppb, but below 50 ppb in blood or serum will result in placement of the effected horse on the "Vet's List" until blood or serum test results are below 25 ppb. Testing will be administered at no less than seven (7) day intervals. The cost of subsequent testing after initial finding will be conducted at owner's expense.

8.3.2.5.2 Cobalt detected at or above 50 ppb in blood or serum will result in a minimum: \$500 fine and 15-day suspension for the trainer; the owner would loss any purse money gained; and, the horse would be placed on the "Vet's List" in accordance with the protocol detailed in 8.3.2.5.1 above.

8.3.2.6 In determining the appropriate penalty with respect to a medication rule violation, the Presiding Judge or other designee of the Commission may use his/her discretion in the application of the foregoing penalty recommendations, and shall consult with the Commission Veterinarian(s) and/or the Commission chemist to determine the seriousness of the laboratory finding or the medication violation. Aggravating or mitigating circumstances in any case should be considered and greater or lesser penalties and/or disciplinary measures may be imposed than those set forth above. Specifically, if the Presiding Judge or other designee of the Commission determine that mitigating circumstances warrant imposition of a lesser penalty than the recommendations suggest, he may impose a lesser penalty. If the Presiding Judge or other designee of the Commission determines that aggravating circumstances require imposition of a

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

30

greater penalty, however, he may only impose up to the maximum recommended penalty, and must refer the case to the Commission for its review, with a recommendation for specific action. Without limitation, the presence of the following aggravating circumstances may warrant imposition of greater penalties than those recommended, up to and including a lifetime suspension:

8.3.2.6.1 Repeated violations of these medication and prohibited substances rules by the same trainer or with respect to the same horse;

8.3.2.6.2 Prior violations of similar rules in other racing jurisdictions by the same trainer or with respect to the same horse; or

8.3.2.6.3 Violations which endanger the life or health of the horse.

8.3.2.6.4 Violations that mislead the wagering public and those desiring to claim a horse as to the condition and ability of the horse;

8.3.2.6.5 Violations that undermine or corrupt the integrity of the sport of harness racing.

8.3.2.7 Any person whose license is reinstated after a prior violation involving class 1 or class 2 drugs and who commits a subsequent violation within five years of the prior violation, shall absent extraordinary circumstances, be subject to a minimum revocation of license for five years, and a minimum fine in the amount of the purse money of the race in which the infraction occurred, along with any other penalty just and reasonable under the circumstances.

8.3.2.7.1 With respect to Class 1, 2 and 3 drugs detect in a urine sample but not in a blood sample, and in addition to the foregoing factors, in determining the length of a suspension and/or the amount of a fine, or both, the Board of Judges may take in consideration, without limitation, whether the drug has any equine therapeutic use, the time and method of administration, if determined, whether more than one foreign substance was detected in the sample, and any other appropriate aggravating or mitigating factors.

8.3.2.8 Whenever a trainer is suspended more than once within a two-year period for a violation of this chapter regarding medication rules, any suspension imposed on the trainer for any such subsequent violation also shall apply to the horse involved in such violation. The Board of Judges may impose a shorter suspension on the horse than on the trainer.

8.3.2.9 At the discretion of the Presiding Judge or other designee of the Commission, a horse as to which an initial finding of a prohibited substance has been made by the Commission chemist may be prohibited from racing pending a timely hearing; provided, however, that other horses registered under the care of the trainer of such a horse may, with the consent of the Presiding Judge or other designee of the Commission be released to the care of another trainer, and may race.

8.3.3 Medication Restrictions

8.3.3.1 Drugs or medications in horses are permissible, provided:

8.3.3.1.1 the drug or medication is listed by the Association of Racing Commissioners International's Drug Testing and Quality Assurance Program; and

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

31

- 8.3.3.1.2 the maximum permissible urine or blood concentration of the drug or medication does not exceed the limit established in these Rules or otherwise approved and published by the Commission.
- 8.3.3.2 Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter during the 24-hour period before post time for the race in which the horse is entered. Such administration shall result in the horse being scratched from the race and may result in disciplinary actions being taken.
- 8.3.3.3 A finding by the official chemist of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:
- 8.3.3.3.1 drugs or medications for which no acceptable levels have been established in these Rules or otherwise approved and published by the Commission.
- 8.3.3.3.2 therapeutic medications in excess of acceptable limits established in these rules or otherwise approved and published by the Commission.
- 8.3.3.3.3 Substances present in the horse in excess of levels at which such substances could occur naturally and such prohibited substances shall include a total carbon dioxide level of 37 mmol/L or serum in a submitted blood sample from a horse or 39 mmol/L if serum from a horse which has been administered furosemide in compliance with these rules, provided that a licensee has the right, pursuant to such procedures as may be established from time to time by the Commission, to attempt to prove that a horse has a naturally high carbon dioxide level in excess of the above-mentioned levels; and provided, further, that an excess total carbon dioxide level shall be penalized in accordance with the penalty recommendation applicable to a Class 2 substance.
- 8.3.3.3.4 substances foreign to a horse at levels that cause interference with testing procedures. The detection of any such substance is a violation, regardless of the classification or definition of the substance or its properties under the Uniform Classification Guidelines for Foreign Substances.
- 8.3.3.4 The tubing, dosing or jugging of any horse for any reason within 24 hours prior to its scheduled race is prohibited unless administered for medical emergency purposes by a veterinarian licensed to practice veterinary medicine in the State of Delaware, in which case the horse shall be scratched. The practice of administration of any substance via a naso-gastric tube or dose syringe into a horse's stomach within 24 hours prior to its scheduled race is considered a violation of these rules and subject to disciplinary action, which may include fine, suspension and revocation or license.
- 8.3.3.5 A finding by the official chemist that Erythropoietin (EPO), darbopoietin (DPO) or their antibodies was present in a post-race test specimen of a horse shall be promptly reported in writing to the judges. The judges shall notify the owner and trainer of the positive test result for EPO, DPO or their

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

32

antibodies. The judges shall notify the Chief DHRC Veterinarian of the name of the horse for placement on the Veterinarian's List, pursuant to Rule 8.6.1.1, if the positive test result indicates that the horse is unfit to race. Any horse placed on the Veterinarian's List pursuant to this Rule shall not be permitted to enter a race until the owner or trainer, at their own expense, provides proof of a negative test result for EPO, DPO or their antibodies from a laboratory approved by the Commission, provided said test sample is obtained under collection procedures acceptable to the Commission or its designee under these Rules.

8.3.4 Medical Labeling

8.3.4.1 No person on association grounds where horses are lodged or kept, excluding veterinarians licensed to practice veterinary medicine in the State of Delaware, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

8.3.4.2 Any drug or medication which is used or kept on association grounds and which, by federal or Delaware law, requires a prescription must have been validly prescribed by a veterinarian licensed to practice veterinary medicine in the State of Delaware, and in compliance with the applicable federal and state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

8.3.4.2.1 the name of the product;

8.3.4.2.2 the name, address and telephone number of the veterinarian prescribing or dispensing the product;

8.3.4.2.3 the name of each patient (horse) for whom the product is intended/prescribed;

8.3.4.2.4 the dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

8.3.4.2.5 the name of the person (trainer) to whom the product was dispensed.

8.3.5 Furosemide (Salix) and Aminocaproic Acid (Amicar)

8.3.5.1 General. Furosemide (Salix) and Aminocaproic Acid (Amicar) may be administered intravenously to a horse on the grounds of the association at which it is entered to compete in a race. Furosemide or Furosemide with Aminocaproic Acid shall be permitted only after the Commission Veterinarian has placed the horse on the Bleeder List or to facilitate the collection of a post-race urine sample.

8.3.5.2 Method of Administration. Furosemide or Furosemide with Aminocaproic Acid shall be administered intravenously (IV) by the licensed Bleeder Medication Veterinarian, unless he determines that a horse cannot receive an intravenous administration of Furosemide or Furosemide with Aminocaproic Acid. Permission for an intramuscular (IM) administration must be authorized by the Presiding Judge or his representative; provided, however, that once Furosemide or Furosemide with Aminocaproic Acid is administered intramuscularly, the horse shall remain in a testing area under the supervision of a Commission representative until it races. IM administration can only be given if

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

33

the horse has exhibited negative reactions to IV administration within this jurisdiction as witnessed by a Commission Veterinarian or Bleeder Medication Veterinarian. If a horse who has received IM administration in this jurisdiction subsequently receives IV administration in another jurisdiction, then that horse can no longer receive IM administration in this jurisdiction. A trainer's representative must be present for IM administration, and attend the horse until moved to the paddock stall.

8.3.5.3 Dosage. Aminocaproic Acid shall be administered to a horse on the Bleeder List only by the licensed Bleeder Medication Veterinarian or Veterinary Technician, who will administer not more than 7.5 grams or less than 2.5 grams intravenously. Furosemide shall be administered to horses on the Bleeder List only by the licensed Bleeder Medication Veterinarian, who will administer not more than 500 milligrams nor less than 100 milligrams, subject to the following conditions:

8.3.5.3.1 Not more than 750 milligrams may be administered if (1) the Commission Veterinarian grants permission for a dosage greater than 500 milligrams, and (2) after the administration of such greater dosage, the horse remains in a detention area under the supervision of a Commission representative until it races; and

8.3.5.3.2 The dosage administered may not vary by more than 250 milligrams from race to race without the permission of the Commission Veterinarian.

8.3.5.4 Timing of Administration. Horses must be presented at their assigned stalls in the paddock for Aminocaproic Acid treatment. Aminocaproic Acid will be administered not more than 90 minutes (1 1/2 hours) and not less than 60 minutes (1 hour) prior to post time of their respective races and must be treated prior to going on the track the first time. Failure to meet this time frame will result in scratching the horse and the trainer may be fined. Horses must be presented at the Furosemide stall in the paddock, and the Furosemide administered, not more than three hours and 30 minutes (3-1/2 hours) nor less than three hours (three hours) prior to post time of their respective races. Failure to meet this time frame will result in scratching the horse, and the trainer may be fined.

8.3.5.5 Veterinary Charges. It is the responsibility of the owner or trainer, prior to the administration of the medication, to pay the licensed Bleeder Medication Veterinarian at the rate approved by the Commission. No credit shall be given without approval of the Bleeder Medication Veterinarian.

8.3.5.6 Restrictions. No one except a ~~veterinarian licensed to practice veterinary medicine in the State of Delaware~~ Veterinarian or Veterinary Technician shall possess equipment or any substance for injectable administration in any area under the jurisdiction of the Commission, and no horse is to receive furosemide in oral form.

8.3.5.7 Post-Race Quantification. The presence of Aminocaproic Acid in a horse following the running of the race in which it was not declared or reported, may result in the disqualification of the horse or other sanctions being imposed upon the trainer and the administering veterinarian.

Conversely, the absence of a bleeder medication following the running of a race, which was declared and reported may result in the disqualification of the horse and other sanctions being imposed upon the trainer and the bleeder Medication Veterinarian

TITLE 3 AGRICULTURE
DELAWARE ADMINISTRATIVE CODE

34

- 8.3.5.7.1 As indicated by post-race quantification, a horse may not carry in its body at the time of the running of the race more than 100 nanograms of Furosemide per milliliter of plasma in conjunction with a urine that has a specific gravity of less than 1.01, unless the dosage of Furosemide:
- 8.3.5.7.1.1 Was administered intramuscularly as provided in 8.3.5.2; or
- 8.3.5.7.1.2 Exceeded 500 milligrams as provided in 8.3.5.3.1.
- 8.3.5.7.2 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 100 nanograms of furosemide per milliliter of plasma in conjunction with a urine that has a specific gravity of less than 1.01, and provided that the dosage of furosemide was not administered intramuscularly as provided in 8.3.5.2 or exceeded 500 milligrams as provided in 8.3.5.3.1, then a penalty shall be imposed as follows:
- 8.3.5.7.2.1 If such overage is the first violation of this rule within a 12-month period: Up to a \$250 fine and loss of purse.
- 8.3.5.7.2.2 If such overage is the second violation of this rule within a 12-month period: Up to a \$1,000 fine and loss of purse.
- 8.3.5.7.2.3 If such overage is the third violation of this rule within a 12-month period: Up to a \$1,000 fine and up to a 15-day suspension and loss of purse.
- 8.3.5.7.2.4 If in the opinion of the official chemist any such overage caused interference with testing procedures, then for each such overage a penalty of up to a \$1,000 fine and a suspension of from 15 to 50 days may be imposed.
- 8.3.5.8 Reports
- 8.3.5.8.1 The Bleeder Medication Veterinarian or Veterinary Technician who administers Aminocaproic Acid or Furosemide or Furosemide with Aminocaproic Acid to a horse scheduled to race shall prepare a written certification indicating the time, dosage and method of administration.
- 8.3.5.8.2 The written certification shall be delivered to a Commission representative designated by the Judges within one (1) hour of the last scheduled race for that day.
- 8.3.5.9 Bleeder List
- 8.3.5.9.1 The Bleeder Medication Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage (EIPH) or the existence of hemorrhage in the trachea post exercise upon:
- 8.3.5.9.1.1 visual examination wherein blood is noted in one or both nostrils either:
- 8.3.5.9.1.1.1 during a race;
- 8.3.5.9.1.1.2 immediately post-race or post-exercise on track; or

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

35

- 8.3.5.9.1.1.3 within one hour post-race or post-exercise in paddock and/or stable area, confirmed by endoscopic examination; or
- 8.3.5.9.1.2 endoscopic examination, which may be requested by the owner or trainer who feels his horse is a bleeder. Such endoscopic examination must be done by a veterinarian licensed to practice veterinary medicine in the State of Delaware, at the owner's or trainer's expense. Such an examination shall take place within one hour post-race or post-exercise; or
- 8.3.5.9.1.3 presentation to the Commission Veterinarian, at least 48 hours prior to racing, of a current Bleeder Certificate from a commission or commission licensed Bleeder Medication Veterinarian from any other jurisdiction, which show the date, place and method -- visual or endoscopy -- by which the horse was determined to have bled, or which attests that the horse is a known bleeder and receives bleeder medication in that jurisdiction, provided that such jurisdiction's criteria for the identification of bleeders are satisfactory to the Commission Veterinarian.
- 8.3.5.9.2 The confirmation of a bleeder horse must be certified in writing by the Commission Veterinarian and entered on the Bleeder List. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A copy of the bleeder certificate shall be attached to the horse's eligibility certificate.
- 8.3.5.9.3 Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List, and furosemide or Furosemide with Aminocaproic Acid, if applicable must be administered to the horse in accordance with these rules prior to every race, including qualifying races, in which the horse starts.
- 8.3.5.9.4 A horse which bleeds (EPIH) based on the criteria set forth in 8.3.5.9.1 above shall be restricted from racing at any facility under the jurisdiction of the Commission, as follows:
- 8.3.5.9.4.1 1st time - 6 days suspension from racing;
- 8.3.5.9.4.2 2nd time within 365 day period - the horse must serve a 30 day(s) suspension from racing, provided that the horse must be added to or remain on the Bleeder List, and must complete a satisfactory qualifying race before resuming racing, after the mandatory 30-day rest period; after 365 days without another incident of EPIH all horses revert back to a first time bleeder status;
- 8.3.5.9.4.3 3rd time within 365 day period - the horse must serve a 30 day(s) suspension from racing, and the horse shall be added to the Steward's List, to be removed at the discretion of the Commission Veterinarian following a satisfactory qualifying race after the mandatory 30-day rest period; after 365 days without another incident of EPIH all horses revert back to a first time bleeder status and
- 8.3.5.9.4.4 4th time within 365 day period - barred for life.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

37

more than 2.6 micrograms per milliliter of blood plasma of phenylbutazone or oxyphenbutazone, then warnings shall be issued to the trainer.

8.3.6.1.3 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 2.6 micrograms per milliliter of blood plasma of phenylbutazone or oxyphenbutazone, then a penalty shall be imposed as follows:

8.3.6.1.3.1 For an average between 2.6 and less than 5.0 micrograms per milliliter:

8.3.6.1.3.1.1 If such overage is the first violation of this rule within a 12-month period: Up to a \$250 fine and loss of purse.

8.3.6.1.3.1.2 If such overage is the second violation of this rule within a 12-month period: Up to a \$1,000 fine and loss of purse.

8.3.6.1.3.1.3 If such overage is the third violation of this rule within a 12-month period: Up to a \$1,000 fine and up to a 15-day suspension and loss of purse.

8.3.6.1.3.1.4 For an overage of 5.0 micrograms or more per milliliter: Up to a \$1,000 fine and up to a 5-day suspension and loss of purse.

8.3.6.1.4 If post-race quantification indicates that a horse carried in its body at the time of the running of the race any quantity of phenylbutazone or oxyphenbutazone, and also carried in its body at the time of the running of the race any quantity of any other non-steroidal anti-inflammatory drug, including but not limited to naproxen, flunixin and meclufenamic acid, then such presence of phenylbutazone or oxyphenbutazone, shall constitute a violation of this rule and shall be subject to a penalty of up to a \$1,000 fine and up to a 50-day suspension and loss of purse.

8.3.7 Anabolic/Androgenic Steroids

8.3.7.1 With respect to nandrolone, boldenone, stanozolol and testosterone in fillies, mares, and geldings (testosterone and nandrolone in stud horse samples are treated separately in 8.3.7.2):

8.3.7.1.1 Any test result at plasma concentrations below 100 picograms per milliliter will be considered a negative test.

8.3.7.1.2 Any test result at plasma concentration levels at or above 100 picograms per milliliter will be considered a positive test result and subject to sanctions as described in subsection 8.3.7.3.

8.3.7.2 With respect to nandrolone and testosterone levels determined in intact male horses:

8.3.7.2.1 Nandrolone

8.3.7.2.1.1 Any test result at plasma concentrations below 500 picograms per milliliter will be considered a negative test.

8.3.7.2.1.2 Any test result at and above plasma concentrations of 500 picograms per milliliter will be considered a positive test and subject to sanctions as described in subsection 8.3.7.3.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

38

- 8.3.7.2.2 Testosterone
 - 8.3.7.2.2.1 Any test result at plasma concentrations below 2000 picograms per milliliter will be considered a negative test.
 - 8.3.7.2.2.2 Any test result at and above plasma concentrations of 2000 picograms per milliliter will be considered a positive test and subject to sanctions as described in subsection 8.3.7.3.

8.3.7.3 Sanctions

- 8.3.7.3.1 First Offense: The horse will be placed on the Vets List and cannot race again until it tests below 100 picograms for Boldenone, Stanozolol, Nandrolone and Testosterone in fillies, mares and geldings and 2000 picograms for Testosterone and 500 picograms for Nandrolone in intact males. Any and all purse money is forfeited. The trainer is notified for a hearing and a fine not to exceed \$1,500.00 and 15 days full suspension will be assessed absent mitigating circumstances.
- 8.3.7.3.2 Second Offense: All sanctions for First Offense, plus trainer may be fined not in excess of \$2,500.00 and subject to 30 days full suspension absent mitigating factors.
- 8.3.7.3.3 Third Offense: All sanctions for First Offense, plus trainer may be fined \$10,000.00 and/or up to the amount of the purse of the race and subject to revocation of their DHRC License absent mitigating factors.
- 8.3.7.3.4 Should a horse be claimed from a race where positive findings are confirmed, the claimant has the right to void the claim.

8.4 Testing

8.4.1 Reporting to the Test Barn

- 8.4.1.1 Horses shall be selected for pre- and/or post-racing testing according to the following protocol:
 - 8.4.1.1.1 At least one horse in each race, selected by the judges from among the horses finishing in the first four positions in each race, shall be tested.
 - 8.4.1.1.2 Horses selected for testing shall be taken to the testing area to have a blood, urine and/or other specimen sample taken at the direction of the Commission Veterinarian.
- 8.4.1.2 Random or for cause testing may be required by the Commission, at any time on any horse that has been entered to race at a Commission licensed Association.
- 8.4.1.3 Unless otherwise directed by the Board of Judges or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the Test Barn or testing area.
- 8.4.1.4 Trainers shall fully comply with the instructions of the Commission, which may include, but not be limited to the following: Trainers shall present their horse(s) for testing at the specified time and place mandated by the Commission. Testing procedures may be performed on the grounds of any Commission licensed Association, at the trainer's training facility, or any other location under Commission jurisdiction. Failure to comply shall result in the horse(s) being scratched, and shall be considered a violation equivalent to a Class 1 positive.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

- 8.4.2 Sample Collection
- 8.4.2.1 Sample collection shall be done in accordance with the RCI Drug Testing and Quality Assurance Program External Chain of Custody Guidelines, or other guidelines and instructions provided by the Commission Veterinarian.
- 8.4.2.2 The Commission veterinarian shall determine a minimum sample requirement for the primary testing laboratory. A primary testing laboratory must be approved by the Commission.
- 8.4.3 Procedure for Taking Specimens
- 8.4.3.1 Horses from which specimens are to be drawn shall be taken to the detention area at the prescribed time and remain there until released by the Commission Veterinarian or Veterinary Technician. Only the owner, trainer or groom of horses to be tested shall be admitted to the detention area without permission of the Commission Veterinarian.
- 8.4.3.2 Stable equipment other than equipment necessary for washing and cooling out a horse shall be prohibited in the detention area.
- 8.4.3.2.1 Buckets and water shall be furnished by the Commission Veterinarian.
- 8.4.3.2.2 If a body brace is to be used, it shall be supplied by the responsible trainer and administered only with the permission and in the presence of the Commission Veterinarian.
- 8.4.3.2.3 A veterinarian licensed to practice veterinary medicine in the State of Delaware shall attend a horse in the detention area only in the presence of the Commission Veterinarian.
- 8.4.3.3 One of the following persons shall be present and witness the taking of the specimen from a horse and so signify in writing:
- 8.4.3.3.1 The owner;
- 8.4.3.3.2 The responsible trainer who, in the case of a claimed horse, shall be the person in whose name the horse raced; or
- 8.4.3.3.3 A stable representative designated by such owner or trainer.
- 8.4.3.4 Sample Containers/Receptacles.
- 8.4.3.4.1 All urine containers shall be supplied by the Commission laboratory and shall be sealed with the laboratory security seal which shall not be broken, except in the presence of the witness as provided by (subsection (3)) subsection 8.4.3.3 of this section.
- 8.4.3.4.2 Blood sample receptacles will also be supplied by the Commission laboratory in sealed packages as received from the manufacturer.
- 8.4.3.5 Samples taken from a horse, by the Commission Veterinarian or his assistant at the detention barn, shall be collected and in double containers and designated as the "primary" and "secondary" samples.
- 8.4.3.5.1 These samples shall be sealed with tamper-proof tape and bear a portion of the multiple part "identification tag" that has identical printed numbers only. The other portion of the tag bearing the same printed identification number shall be detached in the presence of the witness.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

41

consultation with the Commission chemist. The reasonable period is to be calculated to insure the integrity of the sample and the preservation of the alleged illegal substance.

8.4.3.5.9.2 Testing of the "secondary" samples shall be performed at a referee laboratory selected by representatives of the owner, trainer, or other responsible person from a list of not less than two (2) laboratories approved by the Commission.

8.4.3.5.10 The Commission shall bear the responsibility of preparing and shipping the sample, and the cost of preparation, shipping, and testing at the referee laboratory shall be assumed by the person requesting the testing, whether it be the owner, trainer, or other person charged.

8.4.3.5.10.1 A Commission representative and the owner, trainer, or other responsible person or a representative of the persons notified under these Rules and Regulations may be present at the time of the opening, repackaging, and testing of the "secondary" sample to ensure its identity and that the testing is satisfactorily performed.

8.4.3.5.10.2 The referee laboratory shall be informed of the initial findings of the Commission chemist prior to making the test.

8.4.3.5.10.3 If the finding of the referee laboratory is proven to be of sufficient reliability and does not confirm the finding of the initial test performed by the Commission chemist and in the absence of other independent proof of the administration of a prohibited drug of the horse in question, it shall be concluded that there is insubstantial evidence upon which to charge anyone with a violation.

8.4.3.5.11 The Commission Veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause the specimens to be delivered only to the Commission chemist as soon as possible after sealing, in a manner so as not to reveal the identity of a horse from which the sample was taken.

8.4.3.5.12 If an Act of God, power failure, accident, strike or other action beyond the control of the Commission occurs, the results of the primary official test shall be accepted as prima facie evidence.

8.5 Trainer Responsibility. The purpose of this subsection is to identify responsibilities of the trainer that pertain specifically to the health and well-being of horses in his care.

8.5.1 The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible. Whenever a trainer of a horse names a substitute trainer for program purposes due to his inability to be in attendance with the horse on the day of the race, or for any other reason, both trainers shall be responsible for the condition of the horse should the horse test positive; provided further that, except as otherwise provided herein, the trainer of record (programmed trainer) shall be any individual who receives any compensation for training the horse.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

42

- 8.5.2 A trainer shall prevent the administration of any drug or medication or other foreign substance that may cause a violation of these rules.
- 8.5.3 A trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.
- 8.5.4 The trainer is responsible for:
 - 8.5.4.1 maintaining the assigned paddock area in a clean, neat and sanitary condition at all times;
 - 8.5.4.2 using the services of those veterinarians licensed by the Commission to attend horses that are on grounds under the jurisdiction of the Commission;
- 8.5.5 Additionally, with respect to horses in his care or custody, the trainer is responsible for:
 - 8.5.5.1 the proper identity, custody, care, health, condition and safety of horses;
 - 8.5.5.2 ensuring that at the time of arrival at locations under the jurisdiction of the Commission a valid health certificate and a valid negative Equine Infectious Anemia (EIA) test certificate accompany each horse and which, where applicable, shall be filed with the Racing Secretary;
 - 8.5.5.3 having each horse in his care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the Racing Secretary;
 - 8.5.5.4 using the services of those veterinarians licensed by the Commission to attend horses that are on grounds under the jurisdiction of the DHCA;
 - 8.5.5.5 immediately reporting the alteration of the sex of a horse to the Program/Charter coordinator, and the United States Trotting Association;
 - 8.5.5.6 promptly reporting to the Program/Charter coordinator and the Commission Veterinarian when a posterior digital neurectomy (heel nerving) has been performed and ensuring that such fact is designated on its certificate of registration;
 - 8.5.5.7 promptly notifying the Commission Veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his charge;
 - 8.5.5.8 promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the Commission to a Commission Veterinarian, the DHRC Administrator, and the United States Trotting Association;
 - 8.5.5.9 maintaining a knowledge of the medication record and status;
 - 8.5.5.10 immediately reporting to the Board of Judges and the Commission Veterinarian(s) knowledge or reason to believe, that there has been any administration of a prohibited medication, drug or substance;
 - 8.5.5.11 ensuring the fitness to perform creditably at the distance entered and promptly requesting a scratch from Board of Judges if an entered horse becomes unfit to race (sick, lame, injured or deceased);

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

43

- 8.5.5.12 ensuring that every horse he has entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed in this chapter;
 - 8.5.5.13 ensuring proper bandages, equipment and shoes;
 - 8.5.5.14 presence in the paddock at least one hour before post time or at a time otherwise appointed before the race in which the horse is entered;
 - 8.5.5.15 personally attending in the paddock and supervising the harnessing thereof, unless excused by the Paddock Judge;
 - 8.5.5.16 attending the collection of a urine or blood sample or delegating a licensed employee or the owner to do so; and
 - 8.5.5.17 immediately reporting to the Administrator of Racing and to the Commission Veterinarian, the death of any horse drawn in to race in this jurisdiction provided that the death occurred within 60 days of the date of the draw. Reports must be received as soon as practically possible and horses may not be disposed of until clearance is given by the Administrator of Racing or a Commission Veterinarian. Trainers should check Commission's website for appropriate contact information.
- 8.6 Physical Inspection of Horses
- 8.6.1 Veterinarian's List
 - 8.6.1.1 The Commission 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.
 - 8.6.1.2 A horse may be removed from the Veterinarian's List when, in the opinion of the Commission Veterinarian, the horse has satisfactorily recovered the capability of competing in a race.
 - 8.6.1.3 A horse may be placed on the Veterinarians List by the Commission Veterinarian for a prescribed number of days and then be allowed to race after those days have elapsed.
 - 8.6.2 Postmortem Examination
 - 8.6.2.1 The Commission may conduct a postmortem examination of any horse that is injured in this jurisdiction while in training or in competition and that subsequently expires or is euthanized. In proceeding with a postmortem examination the Commission or its designee shall coordinate with the trainer and/or owner to determine and address any insurance requirements.
 - 8.6.2.2 The Commission may conduct a postmortem examination of any horse that expires while housed at recognized training facilities within this jurisdiction. Trainers and owners shall be required to comply with such action as a condition of licensure.
 - 8.6.2.3 The Commission will conduct postmortem examinations of any horse which expires while located on grounds under the jurisdiction of the Commission. Trainers and owners shall be required to comply with such action as a condition of licensure.
 - 8.6.2.4 The Commission may take possession of the horse upon death for postmortem examination. The Commission may submit blood, urine, other bodily fluid specimens or other tissue specimens collected during a postmortem examination for testing by the Commission-selected laboratory or its designee.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

44

Upon completion of the postmortem examination, the carcass may be returned to the owner or disposed of at the owner's option.

8.6.2.5 The Commission may conduct mandatory post mortem conferences with trainers upon receipt of post mortem examination results. Trainers must attend, and owners may attend, such conferences, which will be called and facilitated by the Commission Veterinarian(s). The Presiding Judge and the Administrator of Racing (and other Commission staff as determined necessary by the Commission Veterinarians) may attend.

8.6.2.6 The presence of a prohibited substance in a horse, found by the official laboratory or its designee in a bodily fluid specimen collected during the postmortem examination of a horse, which breaks down during a race constitutes a violation of these rules.

8.6.2.7 The cost of Commission-ordered postmortem examinations, testing and disposal shall be borne by the Commission.

8.7 Prohibited Practices

8.7.1 The following conduct shall be prohibited for all licensees:

8.7.1.1 The possession and/or use of a drug, substance, or medication, specified below for which a recognized analytical method has been developed to detect and confirm the administration of such substance including but not limited to erythropoietin, darbepoietin, and perfluorcarbon emulsions; or the use of which may endanger the health and welfare of the horse or endanger the safety of the driver; or the use of which may adversely affect the integrity of racing.

8.7.1.2 The possession and/or use of a drug, substance, or medication that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

8.7.1.3 The possession and/or use of Blood Doping Agents including but not limited to: EPO, DPO, Oxyglobin, Hemopure or any other substance that abnormally enhances the oxygenation of equine body tissue is considered a prohibited practice that endangers the health and welfare of a horse and/or the safety and welfare of a driver.

8.7.2 Testing

8.7.2.1 Horses may be tested for EPO, DPO, Oxyglobin, Hemopure or any other substance that abnormally enhances the oxygenation of equine body tissue as follows:

8.7.2.1.1 Once a horse is entered to race

8.7.2.1.2 Any horse that was entered or raced within sixty (60) days of entry and/or race

8.7.2.1.3 Any horse showing the presence of EPO, DPO and/or like antibodies

8.7.2.1.4 Any horse in the care, custody and control of a trainer having a horse that has tested positive for EPO, DPO and like substances through a screening test

8.7.2.1.5 Any horse that expires; consistent with DHRC Rules 8.6.2.1-8.6.2.5.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

45

- 8.7.2.2 Two blood samples shall be collected in DHRC approved sample receptacles; one is the primary sample; and the other is the secondary sample.
- 8.7.2.3 In the event that the presence of EPO, DPO and/or any EPO analogues is determined to be present in a primary sample, the primary sample shall be sent to a DHRC approved laboratory for a confirmation test.
- 8.7.2.4 The trainer and/or owner of any horse that tests positive for the confirmed presence of EPO, DPO, Oxyglobin, Hemopure or any other substance that abnormally enhances the oxygenation of equine body tissue has the right to request a testing of the secondary sample consistent with DHRC Rule 8.4.3.5.10 through and inclusive of DHRC Rule 8.4.3.5.13.
- 8.7.2.5 Upon positive notification from the confirmatory laboratory of the primary sample, if uncontested by the trainer; or notification of confirmation in the secondary sample, the trainer shall be summarily suspended and any/all horses entered, by the trainer, to race shall be scratched. Notice of a hearing shall be delivered to the trainer within twenty-four (24) hours.
- 8.7.2.6 The following penalties and disciplinary measures may be imposed for the confirmed presence of EPO, DPO, Oxyglobin, Hemopure or any other substance that abnormally enhances the oxygenation of equine body tissue:
 - In the absence of extraordinary circumstances, a minimum penalty of \$10,000 and/or a 10 year suspension, forfeiture of the purse money and assessment for cost of the drug testing. Additionally, the Board of Judges may consider possible violations including, but not limited to: DHRC Rule 5.1.7 and DHRC Rule 5.1.16.1.10.
- 8.8 Prohibited Substances Protests; Testing
 - 8.8.1 Protest-Request for Super Test
 - 8.8.1.1 If a licensed owner, trainer, driver, or claimant has a reasonable belief that a competing or claimed horse has, or may have an unfair competitive advantage due to a violation of the Commission Rules, that owner, trainer, driver, or claimant may file a "Prohibited Substances Protest" with the Commission.
 - 8.8.1.2 A "Prohibited Substances Protest" empowers the owner, trainer, driver, or claimant to request that any horse or horses he competes against or claims in a specified race have a blood and urine sample collected and then tested at an official Association of Racing Commissioners International (ARCI) approved laboratory of his choice. The designated laboratory shall employ state-of-the-art testing methods when testing these protested samples, which shall include, but not be limited to, Enzyme-Linked Immunosorbent Assay (ELISA), Thin Layer Chromatography (TLC), Gas Chromatography Mass Spectrometry (GCM-S), Liquid Chromatography Mass Spectrometry (LCMSMS), and Total Carbon Dioxide (TCO₂) tests.
 - 8.8.1.3 The owner, trainer, driver, or claimant must file a verbal protest with either the starter or paddock judge before the race has been made official. The starter or paddock judge must notify the Presiding Judge immediately, who shall order a veterinary assistant to escort and remain with the horse in accordance with established policy for obtaining a blood and urine sample. Within fifteen (15) minutes after the official sign has been posted for the race in which the protested horse competed, the protesting party shall file a written protest with the paddock judge and post a deposit of \$1,000 which shall be used to offset the following costs:

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

46

- 8.8.1.3.1 The collection of sufficient blood and urine samples, including the costs of the Commission veterinary assistant and Commission veterinarian and all necessary collection apparatus;
- 8.8.1.3.2 The packing of and transportation of these samples by bonded courier to the selected laboratory; and
- 8.8.1.3.3 All costs incurred by the state-of-the-art testing methods employed by the ARCI laboratory.
- 8.8.1.4 In the event the costs exceed the \$1,000 deposit, the protesting party shall be required to post additional monies to cover such costs.
- 8.8.1.5 The owner and/or trainer of the protested horse shall have the right to be present during the collection, packaging and shipping of these test samples.
- 8.8.1.6 Upon completion of all testing, the laboratory shall notify the Commission of the results. The Commission shall immediately notify the trainer of the protested horse as well as the protesting party of these test results.
- 8.8.1.7 If the test results substantiate a violation of the Commission rules in effect on the date of the race, the trainer of the tested horse shall be afforded the same rights every trainer receives when charged with any rules violation. This shall include the right to request a split sample test at a designated ARCI laboratory that has agreed to accept split samples from the Commission.
- 8.8.1.8 Penalties shall be assessed in accordance with the Commission penalty recommendations for a violation of the rules in effect on the date of the race. In no case, however, shall the penalty imposed for a medication violation be less than a \$500 fine. If the test results substantiate the presence of antibodies to erythropoietin (EPO), darbepoietin, or any EPO analogues, in addition to any DHRC penalties, the horse shall immediately be placed on the Steward's List and shall not be permitted to enter a race until the horse tests negative for the presence of EPO, darbepoietin, or any EPO analogue antibody(ies) previously detected. All testing must be performed by the DHRC official lab.
- 8.8.1.9 If the test results substantiate a violation of the Commission rules in effect on the date of the race, a successful claimant may void the claim in accordance with Commission Rules.
- 8.8.1.10 Any monies remaining from the protest deposit after costs shall be returned to the protesting party even if a violation of the Commission Rules is not detected. If a violation is detected, costs shall be assessed against the trainer of the protested horse and the Commission shall reimburse the protesting party upon receipt thereof.
- 8.8.1.11 The owner, trainer, driver, or claimant who files a Prohibited Substances Protest pursuant to this Section shall be immune from civil liability for filing the protest.
- 8.8.2 Routine Post Race Testing
 - 8.8.2.1 Routine Post Race Testing shall include but not be limited to screening for antibodies to erythropoietin (EPO), darbepoietin, or any EPO analogues.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

47

- 8.8.2.2 Any claimed horse not otherwise selected for testing by the racing officials shall be tested if requested by the claimant at the time the claim form is submitted in accordance with the Commission Rules.
- 8.8.2.3 The successful claimant shall have the right to void the claim should the forensic analysis be positive for any prohibited substance, illegal level of a permitted medication, or presence of antibodies to erythropoietin (EPO), darbepoietin, or any EPO analogues.
- 8.8.2.4 If the test results substantiate the presence of antibodies to erythropoietin (EPO), darbepoietin, or any EPO analogues, in addition to assessing penalties in accordance with the DHRC rules, the horse shall immediately be placed on the steward's list and shall not be permitted to enter a race until the horse tests negative for the presence of EPO, darbepoietin, or any EPO analogue antibody(ies) previously detected and said horse is removed from the Steward's List. All testing must be performed by the DHRC official lab.
- 8.8.3 This Rule enacts the provisions of 74 **Del. Laws** c. 236 (2004) which amended 28 **Del.C.** §706 in its entirety, and this Rule shall apply in the event these provisions conflict with or are otherwise inconsistent with any other Commission Rule.
- 8.9 Prerace Testing by Blood Gas Analyzer or Similar Equipment
- 8.9.1 Notwithstanding any other provisions of these Rules to the contrary, the Commission may conduct prerace and postrace testing with the use of any accepted, reliable testing instrument, including but not limited to a blood gas analyzer for measuring excess carbon dioxide in blood samples.
- 8.9.2 The Presiding Judge shall announce the selected races or horses for testing and the appropriate time and location.
- 8.9.3 All horses shall be brought to the paddock or other secure, designated area for the prerace testing before its first warm up, based on the Commission published paddock times.
- 8.9.4 Each horse entered to compete in the racing program shall be present in his designated paddock stall with a groom for the purpose of having a blood sample drawn by the Commission Veterinarian or Veterinary Technician.
- 8.9.5 The order and number of horses which shall have blood drawn for prerace testing shall be at the discretion of the Commission and the Presiding Judge.
- 8.9.6 The Commission Veterinarian will be responsible to verify with the testing machine technician that the blood gas analyzer test is completed for the specific horse in question. The Commission Veterinarian or his designee will inform the trainer or groom if their horse will be retested or can be given permission to leave the paddock.
- 8.9.7 *Refusal-Failure* or refusal by a licensee to present a selected horse under his care, custody, or control for blood gas analyzer testing, or who refuses in any other way, shall result in an automatic scratch of the horse from the racing program, and any other appropriate disciplinary action in the discretion of the judges. The Commission Veterinarian or Veterinary Technician shall document the name of the trainer or person who refuses to have blood drawn from the horse, and shall file a report with the Commission.
- 8.9.8 *Exercise Prior to Testing*-In the event that the horse has exercised prior to testing and the horse tests below the Commission standard for a high blood gas test, the horse can be retested upon the discretion of the Administrator of Racing or Presiding Judge, or tested post race.

TITLE 3 AGRICULTURE

DELAWARE ADMINISTRATIVE CODE

48

- 8.9.9 *Post Race Testing*-The blood gas analyzer machine or similar testing equipment may be used for the post-race blood gas testing on selected horses. The collection of samples will be pursuant to Rule 8.4.3 and testing of split samples will be pursuant to Rule 8.4.3.5.10.
- 8.9.10 The Commission Veterinarian will provide documentation reflecting the tattoo or name of the horse from which the blood was drawn, the date and time the blood was drawn, and any other identifying information.
- 8.9.11 *Trainer Observation of Testing*-The trainer or other designated representative is permitted to observe the testing procedure, but not to question the technician or otherwise disrupt the testing.
- 8.9.12 The Presiding Judge, Commission Veterinarian, and blood gas technician will ensure that the blood gas analyzer or other testing equipment is calibrated in compliance with the recommended calibration and maintenance procedures for the machine, and that the testing machine is in proper working order.
- 8.9.13 In addition to the provisions of Rule 8.3 and unless otherwise permitted by these Rules, no foreign substance shall be carried in the body of a horse when the horse is on the grounds of the licensed racetrack; it shall be a violation of this rule for a horse to test positive in a pre-race test result using a blood gas analyzer or other testing equipment.
- 8.9.14 The penalties for post-race positive tests contained in Rule 8.3.2, may apply to pre-race test samples that are positive for a prohibited substance.
- 8.9.14.1 A positive test result from a pre-race sample tested on the blood gas analyzer machine is subject to the recommended penalty in Rule 8.9.15. For pre-race testing the Commission may use a testing machine that uses the Commission standard in Rule 8.3.3.3 substances present in a horse in excess of levels at which such substances could occur naturally and such prohibited substances shall include a total carbon dioxide level of 37 mmol/L or serum in a submitted blood sample from a horse or 39 mmol/L if serum from a horse which has been administered furosemide in compliance with these rules.
- 8.9.14.2 The Commission may alternatively use a testing machine that measures carbon dioxide levels in pre-race samples using a Base Excess testing protocol.
- 8.9.14.2.1 Under this alternative protocol, the prohibitive Base Excess concentrations are as follows: Base Excess level of 10.0 mmol/l (mEq/l) or higher for non-furosemide (Lasix) treated horses and Base Excess (BE) level of 12.0 mmol/l (mEq/l) or higher for furosemide (Lasix) treated horses. The level of uncertainty will be included before it is considered a violation of these Rules. The level of uncertainty is 0.4 mmol/l (mEq/l) and a positive test report must include this level of uncertainty. A horse must show a Base Excess (BE) level of 10.4 mmol/l (mEq/l) or higher for a non-furosemide (Lasix) treated horse and a Base Excess (BE) level of 12.4 mmol/l (mEq/l) or higher for a furosemide (Lasix) treated horse in order for a violation to be reported under this Rule.
- 8.9.14.2.2 A commission representative will notify the trainer or licensed designee and the primary blood sample of the horse in question shall be immediately retested. In the event that a second blood gas analyzer test is necessary, the Commission Veterinarian or his designee will take a rectal temperature of said horse. The horse's temperature will be recorded on the

TITLE 3 AGRICULTURE
DELAWARE ADMINISTRATIVE CODE

49

veterinarian's control sheet. A second blood sample shall be extracted from the horse by the Commission Veterinarian or Veterinary Technician.

8.9.14.2.3

With respect to a finding of a prohibited level of carbon dioxide in the second extraction obtained from a prerace blood gas analyzer test result, there shall be no right to testing of the second extraction by the licensee. In the event that the initial blood gas analyzer test result is confirmed by the test results of the second extraction in the designated Commission testing area at the racetrack, such test results shall be prima facie evidence that a prohibitive base excess concentration was present in the horse at the time it was scheduled to participate in a race.