

**DEPARTMENT OF AGRICULTURE  
HARNESS RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)  
3 **DE Admin. Code** 501

**PROPOSED**

**PUBLIC NOTICE**

**501 Harness Racing Rules and Regulations**

The Delaware Harness Racing Commission, pursuant to 3 **Del.C.** §10005, proposes to change its Rule 6.6.6.3, 6.6.6.4, 6.6.6.9, 6.6.6.11, 6.6.6.12.1, 6.6.6.12.2, 6.6.6.12.3 & 6.6.6.12.4. The Commission will hold a public hearing on the proposed rule changes on December 11, 2012. Written comments should be sent to Hugh J. Gallagher, Administrator of Harness Racing, Department of Agriculture, 2320 S. DuPont Highway, Dover, DE 19901. Written comments will be accepted for thirty (30) days from the date of publication in the *Register of Regulations* on November 1, 2012.

The proposed changes are for the purpose of updating Rule 3 and reflect current policies, practices and procedures. Copies are published online at the *Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml)

A copy is also available for inspection at the Harness Racing Commission office.

**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.

**“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.

**“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.

**“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.

**“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 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.

**“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.

**“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.

**“Tubing”** is the administration of any substance via a naso-gastric tube.

1 DE Reg. 501 (11/01/97)  
2 DE Reg. 1068 (1/1/99)  
5 DE Reg. 832 (10/1/01)  
11 DE Reg. 1050 (02/01/08)

## 2.0 Commission

### 2.1 Purpose

- 2.1.1 The Delaware Harness Racing Commission, created by the Act, Title 4, Chapter 100, of the **Delaware Code**, is charged with implementing, administering and enforcing the Act. It is the intent of the Commission that the rules of the Commission be interpreted in the best interests of the public and the State of Delaware.
- 2.1.2 Through these Rules, the Commission intends to implement its statutory mandate to promulgate and prescribe such rules and regulations as are necessary and proper for the purpose of regulating and overseeing the sport of harness racing, as defined in the Act, within the State of Delaware in the public interest, including the regulation of the conduct of all grooms, drivers and owners and their employees, and the regulation of all harness racing horses entered or to be entered in any harness racing meet authorized by the Commission pursuant to the Act.

### 2.2 General Authority

- 2.2.1 The Commission shall regulate each race meeting and the persons who participate in each race meeting.
- 2.2.2 Pursuant to the authority granted in the Act the Commission may delegate to the Board of Judges all powers and duties necessary to fully implement the purposes of the Act.

### 2.3 Membership And Meetings

- 2.3.1 The Commission consists of 5 members appointed as prescribed by the Act. No member of the Commission shall be licensed or regulated, directly or indirectly, by the Commission, nor shall any member of the Commission have any legal or beneficial interest, direct or indirect, pecuniary or otherwise, in any firm, association or corporation so licensed or regulated or which participates in pari-mutuel meetings in any manner. No member of the Commission shall be a person not of good moral character, nor shall a member of the Commission be a person convicted of, or under indictment for, a felony under the laws of Delaware or any other state, or the United States.
- 2.3.2 The Chairman of the Commission shall be appointed by the Governor. If at any time the Governor has not appointed a Chairman of the Commission, the Chairman of the Commission shall be elected by majority vote of the members of the Commission, with such election to be effective until such time as the Governor has appointed a Chairman of the Commission. The Vice Chairman of the Commission shall be elected annually at the January meeting of the Commission by majority vote of the members of the Commission. The Vice Chairman shall serve as Chairman at any meeting from which the Chairman is absent.
- 2.3.3 The Commission shall meet at the call of the Chairman or of a majority of the members. The Commission shall establish and maintain offices on each Association grounds, and at such other places as the Commission deems appropriate, and shall meet at least monthly during the period when any Association is conducting a harness horse racing meet, and at such other times as deemed necessary. Notice of the meetings must be given and the meetings must be conducted in accordance with the Freedom of Information Act, 29 **Del.C.** Ch. 100.
- 2.3.4 A majority of the Commission constitutes a quorum. When a quorum is present, a motion before the Commission is carried by an affirmative vote of the majority of the Commissioners present at the meeting.
- 2.3.5 To the extent required by 29 **Del.C.** Ch. 101 or by the Act, the Commission rules and orders shall be subject to the Administrative Procedures Act.
- 2.3.6 A Commission member may not act in the name of the Commission on any matter without a majority vote of a quorum of the Commission.

### 2.4 Annual Report

- 2.4.1 The Commission shall submit an annual report as prescribed by the Act.

### 2.5 Employees/Officials

- 2.5.1 The Commission may appoint officers, clerks, stenographers, inspectors and officials or employees as it deems necessary to implement, administer and enforce the Act. No person shall be appointed to or hold any such office or position who holds any official relation to any Association conducting harness horse racing within the State of Delaware, or whose parent, child or sibling is so engaged during the meeting at which such person is so appointed. Regardless of who pays the salary of such officials or employees, the Commission shall determine and insure that such officials or employees perform their duties in the public interest.

2.5.2 The Administrator of Harness Racing (Administrator) within the Department of Agriculture shall maintain the records of the Commission and shall perform other duties as required by the Commission. Except as otherwise provided by a rule of the Commission, if a rule of the Commission places a duty on the Administrator, the Administrator may delegate that duty to another employee of the Department of Agriculture or of the Commission.

2.5.3 No Commissioner, racing official, judge or employee of the Commission whose duty it is to insure that the rules and regulations of the Commission are complied with shall wager in any pari-mutuel pool at any facility or through any pari-mutuel system subject to the jurisdiction of this Commission, or otherwise bet on the outcome of any race regulated by the Commission or have any financial or pecuniary interest in the outcome of any race regulated by the Commission.

## 2.6 Power of Entry

2.6.1 A member or employee of the Commission, a judge, a peace officer or a designee of such a person may enter any area on Association grounds regulated by the Commission, or any other place of business of an Association regulated by the Commission, at any time to enforce or administer the Act or Commission rules, including the requirements set forth in Rule 4 of these Rules pertaining to Associations.

2.6.2 An Association or an officer, employee or agent of an Association may not hinder a person who is conducting an investigation under or attempting to enforce or administer the Act or Commission rules.

## 2.7 Subpoenas

2.7.1 A member of the Commission, the Administrator, the judges, the Commission Investigator, the presiding officer of a Commission proceeding or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the reproduction of books, papers and documents. Subpoenas as authorized by such persons shall be issued in blank under the hand of any Commissioner and over the seal of the Commission to any party.

2.7.2 A member of the Commission, the Administrator, a presiding officer of a Commission proceeding or other person authorized by the Commission may administer an oath or affirmation to a witness appearing before the Commission or a person authorized by the Commission.

2.7.3 If any person refuses to obey any subpoena requiring the person to appear, to testify, or to produce any books, papers and documents, the Commission may apply to the Superior Court of the county in which the Commission is sitting, and, thereupon, the Court shall issue its subpoena requiring the person to appear and to testify, or to produce the books, papers and documents.

## 2.8 Records

2.8.1 Except as otherwise provided by the Act, Commission records are subject to the Freedom of Information Act, 29 **Del.C.** Ch. 100.

2.8.2 Except as otherwise authorized by statute, all original records of the Commission shall be maintained in the main offices of the Commission at the Department of Agriculture in Dover, Delaware. No person may remove an original record from the offices of the Commission without the approval of the Administrator.

2.8.3 To inspect Commission records, a person must make a written request to the Commission in conformity with 29 **Del.C.** Ch. 100, and must pay all costs including preparing or copying the record and postage, if applicable. The Commission shall determine the costs involved in preparing or copying the record as provided by the Freedom of Information Act.

## 2.9 Allocation of Race Dates and Permits

2.9.1 The Commission shall allocate race dates and permits to each Association in accordance with the Act. An Association shall apply to the Commission for race dates to be conducted in the next calendar year. The application must contain the information required by the Act and Commission licensing procedure. After the request is filed, the Commission may require the Association to submit additional information.

## 2.10 Commission's Powers

The Commission shall promulgate administrative regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. The Commission is also authorized to promulgate administrative regulations for the legal drug testing of licensees. The Commission is authorized to contract for the maintenance and operation of a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests for enforcement of the Commission's drug testing rules and regulations. The licensed persons or Associations conducting harness racing shall reimburse the Commission for all costs of the drug testing programs established pursuant to this section. Increases in costs of the aforementioned testing program shall be reasonable and related to expansion in the number of days of racing and the number of races held, the need to maintain competitive salaries, and inflation. The Commission may not unreasonably expand the drug testing program beyond the scope of the program in effect as of June 30, 1998. Any decision by the

Commission to expand the scope of the drug testing program that occurs after an administrative hearing, at which the persons or Associations licensed under 3 Del.C. §10022 consent to such expansion, shall not be deemed an unreasonable expansion for purposes of this section. The Commission, in addition to the penalties contained in 3 Del.C. §10026, may impose penalties on licensees who violate the drug testing regulations including imposition of fines or assessments for drug testing costs.

**1 DE Reg. 504 (11/01/97)**

**2 DE Reg. 1240 (01/01/99)**

**10 DE Reg. 980 (12/01/06)**

**14 DE Reg. 894 (03/01/11)**

### **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
- 3.1.1.10 Bleeder Medication Veterinarian;
- 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;
- 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.

## 3.2 Board of Judges

### 3.2.1 General Authority

3.2.2.1 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.

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

3.2.2.3 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.

3.2.2.4 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.

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

3.2.2.6 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.

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.

### 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 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 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;
- 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 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; and
- 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

##### 3.5.2 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. 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:

- 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.
- 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 Chief DHRC Veterinarian

- 3.10.1 General Authority. The Chief DHRC Veterinarian shall:

- 3.10.1.1 be appointed by the Commission;
- 3.10.1.2 be a graduate veterinarian and be licensed to practice in the State of Delaware;
- 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;
- 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 destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act.

3.10.2 Racing Responsibilities. With respect to the conduct of each race, and each race meeting authorized by the Commission, the Chief DHRC 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 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 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 the Chief DHRC 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 Chief DHRC Veterinarian shall maintain a list of all horses which he has determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or medical condition.

3.11 Bleeder Medication Veterinarian

3.11.1 General Authority. The Bleeder Medication veterinarian shall:

- 3.11.1.1 Fully cooperate and coordinate his duties, responsibilities, schedules and related functions with the Chief DHRC Veterinarian;
- 3.11.1.2 Be a graduate veterinarian and be licensed to practice in the State of Delaware;
- 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;

- 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.
- 3.11.2 Bleeder List. With the approval of the Chief DHRC Veterinarian, the Bleeder Medication Veterinarian may recommend horses to be placed on and off the Bleeder List.
- 3.12 Chief DHRC Investigator
  - 3.12.1 The Commission may appoint a Chief DHRC Investigator for each harness racing meet. The Chief DHRC Investigator shall perform all duties prescribed by the Commission consistent with the purposes of this chapter. Such racing investigator shall have full and free access to the books, records, and papers pertaining to the pari-mutuel system of wagering and to the enclosure or space where the pari-mutuel system is conducted at any harness racing meeting to which he shall be assigned for the purpose of ascertaining whether the holder of such permit is operating in compliance with the Commission's rules and regulations. The Chief DHRC Investigator shall investigate whether such rules and regulations promulgated by the Commission are being violated at such harness race track or enclosure by any licensee, patron, or other person. Upon discovering any such violation, the Chief DHRC Investigator shall immediately report his findings in writing and under oath to the Commission or its designee as it may deem fitting and proper. The Chief DHRC Investigator shall devote his full time to the duties of his office and shall not hold any other position or employment.
  - 3.12.2 Subject to the approval of the Commission, and under the direction of the Administrator of Racing, the Chief DHRC Investigator may be delegated one or more of the following responsibilities:
    - 3.12.2.1 Supervising the licensing function of the Commission, including performing background checks and fingerprinting applicants for licensure, and facilitating the Commission's participation in a uniform, multi-jurisdictional, reciprocal licensing scheme;
    - 3.12.2.2 Consulting with track security and with law enforcement agencies both within and outside of Delaware;
    - 3.12.2.3 Supervising the human and equine drug-testing programs provided for in these Rules;
    - 3.12.2.4 Conducting vehicle and stall searches;
    - 3.12.2.5 Intelligence gathering and dissemination;
    - 3.12.2.6 Responding to patron complaints regarding the integrity of racing; and
    - 3.12.2.7 Where appropriate, presenting complaints to the Commission for disposition, including complaints seeking disciplinary action against licensees of the Commission.
- 3.13 Administrator of Racing
 

The Commission may employ an Administrator of Racing who shall perform all duties prescribed by the Commission consistent with the purposes of this rule. The Administrator of Racing shall devote his full time to the duties of the office and shall not hold any other office. The Administrator of Racing shall be the representative for the Commission at all meetings of the Commission and shall keep a complete record of its proceedings and preserve, at its general office, all books, maps, documents, and papers entrusted to its care. He shall be the executive officer of the Commission and shall be responsible for keeping all Commission records and carrying out the rules and orders of the Commission. The Commission may appoint the Administrator of Racing to act as a hearing officer to hear appeals from administrative decisions of the Board of Judges.
- 3.14 Any Other Person Designated by the Commission
 

The Commission may create additional racing official positions, as needed. Persons selected for these positions shall be considered racing officials and shall be subject to the general eligibility requirements outlined in Rule 3.1.1 of this chapter.

**1 DE Reg. 504 (11/01/97))**

**2 DE Reg. 1240 (01/01/99)**

**2 DE Reg. 1764 (04/01/99)**

**4 DE Reg. 336 (8/1/00)**

**5 DE Reg. 832 (10/1/01)**

**7 DE Reg. 1512 (5/1/04)**

**10 DE Reg. 1421 (3/1/07)**

**11 DE Reg. 308 (09/01/07)**

**14 DE Reg. 1338 (06/01/11)**

## **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.
- 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.
- 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;
  - 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 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

- 4.3.7.1 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

- 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;
  - 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 Windchill:

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.

#### 4.4 Operations

##### 4.4.1 Security

- 4.4.1.1 An Association conducting a race meeting shall maintain security controls over its premises. Security controls are subject to the approval of the Commission.
- 4.4.1.2 An Association may establish a system or method of restricting access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
- 4.4.1.3 An Association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
- 4.4.1.4 Unless otherwise authorized by the Commission, an Association shall provide continuous security in the receiving and paddock areas during all times that horses are on the grounds to race. An Association shall provide security fencing around the paddock and receiving areas in a manner that is approved by the Commission.
- 4.4.1.5 On request by the Commission, an Association shall provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee.
- 4.4.1.6 Each day, the chief of security for an Association shall deliver a written report to the Presiding Judge regarding occurrences on Association grounds relating to harness horse racing on the previous day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the Presiding Judge a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved.

##### 4.4.2 Fire Prevention

- 4.4.2.1 An Association shall develop and implement a program for fire prevention on Association grounds. An Association shall instruct employees working on Association grounds of the procedures for fire prevention.
- 4.4.2.2 No person shall:
  - 4.4.2.2.1 smoke in the receiving areas, paddock, or within any building on Association grounds;
  - 4.4.2.2.2 burn open fires or oil and gas lamps in the Association grounds;
  - 4.4.2.2.3 leave unattended any electrical appliance that is plugged-in to an electrical outlet.
  - 4.4.2.2.4 permit horses to come within reach of electrical outlets or cords;
  - 4.4.2.2.5 store flammable materials such as cleaning fluids or solvents in the receiving and paddock areas; or
  - 4.4.2.2.6 lock a stall which is occupied by a horse.
- 4.4.2.3 An Association shall post a notice in the receiving areas and paddock which lists the prohibitions outlined in 4.4.2.2.1 - 4.4.2.2.6 above.

##### 4.4.3 Insect and Rodent Control

An Association and the licensees occupying the Association's receiving areas and paddock shall cooperate in procedures to control insects, rodents or other hazards to horses or licensees.

##### 4.4.4 Complaints

- 4.4.4.1 An Association shall designate a location and provide personnel who shall be readily available to the public to provide or receive information.
- 4.4.4.2 An Association shall promptly notify the Commission of a complaint regarding:
  - 4.4.4.2.1 an alleged violation of the Act or a rule of the Commission;
  - 4.4.4.2.2 an alleged violation of ordinances or statutes;
  - 4.4.4.2.3 accidents or injuries; or
  - 4.4.4.2.4 unsafe or unsanitary conditions for patrons, licensees or horses.

##### 4.4.5 Ejection and Exclusion

An Association may eject or exclude a person for any lawful reason.

**1 DE Reg. 502 (11/01/97)**

**2 DE Reg. 1240 (01/01/99)**

**2 DE Reg. 1765 (04/01/99)**

**5 DE Reg. 832 (10/1/01)**

**11 DE Reg. 308 (09/01/07)**

## **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, clerk of the course official starter, official charter, official timer, photo finish technician, patrol judge, program director, State veterinarian and Lasix veterinarian);

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.

#### **5.1.2 Licensing Reciprocity**

The Commission may license persons holding valid permanent (not temporary) licenses issued by Association of Racing Commissioners International (RCI) member racing jurisdictions in North America. The licensee must be in good standing; have cleared a Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) fingerprint check within the previous 36 months, or such other period as is required by the Commission; file an application and/or affidavit as may be required by the Commission; and pay the required fees prior to participating in racing.

5.1.2.1 The Commission may recognize the issuance of racing licenses from RCI member jurisdictions in North America for purposes of issuance of licenses in this jurisdiction.

5.1.2.2 Only permanent licenses in good standing shall be considered. Temporary or probationary licenses shall not be considered.

5.1.2.3 An applicant must be in good standing in each jurisdiction where they hold or have held a racing license.

5.1.2.4 The applicant must have submitted fingerprints within the past 36 months, or such other period as is required by this jurisdiction, for the purpose of a criminal records check by the FBI or RCMP. The applicant shall provide this jurisdiction with proof of licensure from another RCI member jurisdiction to which fingerprints were submitted.

5.1.2.5 The applicant shall submit the license application form and license fee required by this jurisdiction.

5.1.2.6 Provided the above requirements have been met, this jurisdiction may issue either a license and/or a validation sticker. The validation sticker shall be affixed to either a license issued by this jurisdiction or a valid license issued by another RCI member jurisdiction. This Commission shall determine the period of time that such license shall be valid in Delaware.

5.1.2.7 In the event the licensee is absent from this jurisdiction, and upon payment of the applicable fees, a receipt shall be mailed to the licensee's permanent address. The receipt may then be presented at the Commission office by the licensee so that a Commission representative may affix the proper validation sticker to the racing license badge.

5.1.3 Multi-State Licensing Information. In lieu of a license application from this jurisdiction, the Commission shall accept an RCI Multi-State License and Information form.

5.1.4 Age Requirement. Applicants for licensing shall be a minimum of 14 years of age unless otherwise specified in these rules. An applicant may be required to submit a certified copy of his birth certificate. Persons under the age of 18 may be required to show evidence of active participation in a certified educational program or have a high school diploma or equivalent.

5.1.5 Consent to Investigation. The filing of an application for license shall authorize the Commission to investigate criminal and employment records, to engage in interviews to determine applicant's character and qualifications and to verify information provided by the applicant.

- 5.1.6 Consent to Search and Seizure. By acceptance of a license, a licensee consents to search and inspection by the Commission or its agents and to the seizure of any prohibited medication, drugs, paraphernalia or devices in accordance with state/provincial and federal law. Any drugs, medication or other materials seized may be forwarded by the Commission to the official chemist for analysis.
- 5.1.7 Licensees' Obligation to Protect Horses. Each person licensed by the Commission shall do all that is reasonable and within his power and scope of duty to guard against and prevent the administration of any drug, medication or other substance, including permissible medication in excess of the maximum allowable level, to any horse entered or to be entered in an official workout or race, as prohibited by these rules.
- 5.1.8 Substance Abuse/Controlled Substances
  - 5.1.8.1 It is the right and obligation of the Commission to test and establish rules governing substance abuse and controlled substances to preserve the safety and integrity of harness racing.
    - 5.1.8.1.1 All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
    - 5.1.8.1.2 As used in this regulation, the terms "controlled substance" and "drug paraphernalia" have the meanings provided in the Uniform Controlled Substance Act, 16 Del.C., Ch. 47.
  - 5.1.8.2 It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:
    - 5.1.8.2.1 Is engaged in the illegal sale or distribution of alcohol or any controlled substance;
    - 5.1.8.2.2 Possesses, without a valid prescription, any controlled substance;
    - 5.1.8.2.3 Is intoxicated or under the influence of alcohol or any controlled substance;
    - 5.1.8.2.4 Has in his or her possession any drug paraphernalia;
    - 5.1.8.2.5 Refuses to submit to breathalyzer, urine or other alcohol or drug testing when requested by the Presiding Judge or Chief Investigator;
    - 5.1.8.2.6 Presently has alcohol in his or her body. The results of a breathalyzer test showing a reading of more than 0.02 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body; provided, however, that with respect to licensees under the age of 21, the presence of any measurable level of alcohol in the blood shall constitute a violation.
      - 5.1.8.2.6.1 The breathalyzer shall be maintained and tested to insure accuracy according to the guidelines of the manufacturer.
    - 5.1.8.2.7 Presently has any controlled substance in his or her body. The presence of the drug controlled substance in any quantity measured by the testing instrument establishes the presence of the drug controlled substance for purposes of this paragraph.
      - 5.1.8.2.7.1 A licensee is responsible for giving notice (on a Commission approved form) to the Chief Investigator that he or she is using a controlled substance or prescription drug under a valid prescription form a licensed physician. No licensee using a controlled substance or prescription drug will be allowed to participate in racing activities unless the physician has certified (on a Commission approved form) that the use of the controlled substance or prescription drug, when used as prescribed, will not adversely affect the licensee's ability to properly and safely carry out his or her responsibilities.
  - 5.1.8.3 The Commission may conduct random or episodic alcohol or drug testing, as well as alcohol or drug testing based on reasonable suspicion.
    - 5.1.8.3.1 No notice need be given as to onset or cessation of alcohol or drug testing.
    - 5.1.8.3.2 The testing of a licensee may include a field test.
      - 5.1.8.3.2.1 For licensees whose field test results are positive under this regulation, the field test results shall be confirmed by a laboratory acceptable to the Commission, provided that the licensee may be summarily suspended for up to ten days pending the results of the laboratory confirmation test.
      - 5.1.8.3.2.2 If the laboratory procedures confirm the field screening test results, all costs for the transportation and testing of the sample, shall be the financial responsibility of the licensee. Payment shall be due from the licensee immediately upon receipt of notice of the costs.
    - 5.1.8.3.3 The testing of a licensee may also include a laboratory test without a prior field test.
      - 5.1.8.3.3.1 When the sample quantity permits, each test sample may be divided into portions so that one portion may be used for the initial test or confirmation procedure and another portion may be utilized to obtain an independent drug analysis of the test sample.

- 5.1.8.3.3.2 All costs for the transportation and testing of an independent analysis of the specimen sample shall be the financial responsibility of the licensee. Payment shall be due from the licensee immediately upon receipt of notice of the costs.
- 5.1.8.3.4 The Commission shall provide for a secure chain of custody for the sample.
- 5.1.8.3.5 The Commission shall have discretion to require alcohol or drug testing at any time for any licensee having a prior violation of Section 5.1.8.2.
- 5.1.8.4 A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- 5.1.8.5 If there has been a violation, as specified in Section 5.1.8.2, the licensee shall be subject to the following actions:
  - 5.1.8.5.1 The Commission or Presiding Judge may order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or any controlled substance.
  - 5.1.8.5.2 Actions in the case of a first violation may include imposition of a fine of up to \$1,000 or written warning, suspension of the license for up to six months, and placing the violator on probation.
  - 5.1.8.5.3 Actions in the case of a second violation, within two years of the first violation may include imposition of a fine of up to \$2,000 or written warning, suspension of the license for up to one year, placing the violator on probation and ordering the licensee to enroll in and complete, at the licensee's expense, a recognized, appropriately licensed treatment program.
  - 5.1.8.5.4 Actions in the case of a third or subsequent violation, within two years of the second or most recent violation, may include imposition of a fine of up to \$5,000 or written warning, revocation of the license, suspension of the license for up to five years, placing the violator on probation and ordering the licensee to enroll in and complete, at the licensee's expense, a recognized, appropriately licensed treatment program.
  - 5.1.8.5.5 The licensee shall be required to pay for any costs associated with any alcohol or drug testing following a violation of Section 5.1.8.2.
  - 5.1.8.5.6 The terms of any probation shall be determined at the discretion of the Commission.
  - 5.1.8.5.7 In the case of a violation of Section 5.1.8.2 involving an illegal drug, actions for any violation may include any actions provided in Section 5.1.8.5.4 otherwise applicable to third or subsequent violations.
- 5.1.9 Approval or Recommendations by Presiding Judge

The Commission may designate categories of licenses which shall require the Presiding Judge's prior approval or recommendation.
- 5.1.10 Employer Responsibility
  - 5.1.10.1 The employment or harboring of any unlicensed person at facilities under the jurisdiction of the Commission is prohibited.
  - 5.1.10.2 With respect to personnel actions based on a violation of any rule of the Commission relating to racing or pari-mutuel wagering, every employer shall report the discharge of any licensed employee in writing to the Commission or its designee, including the person's name, occupation and reason for the discharge.
- 5.1.11 Employer Endorsement of License Applications. The license application of an employee shall be signed by the employer.
- 5.1.12 Workers' Compensation. Licensed employers shall carry workers' compensation insurance covering their employees as required by Delaware law.
- 5.1.13 Financial Responsibility. Applicants for a license may be required to submit evidence of financial responsibility and shall maintain financial responsibility during the period for which the license is issued.
- 5.1.14 License Refusal. The Commission or its designee may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.
- 5.1.15 License Denial. The Commission may formally deny an application in accordance with these rules. An application denied shall be reported in writing to the applicant stating the reasons for denial, the date when a reapplication may be submitted, and shall be reported to the United States Trotting Association, which shall then advise other racing jurisdictions.
- 5.1.16 Grounds for Refusal, Denial, Suspension or Revocation of License

- 5.1.16.1 The Commission or its designee may refuse to issue or may deny a license to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant:
  - 5.1.16.1.1 has been convicted of a felony;
  - 5.1.16.1.2 has been convicted of violating any law regarding gambling or a controlled dangerous substance;
  - 5.1.16.1.3 has pending criminal charges; or
  - 5.1.16.1.4 is unqualified to perform the duties required of the applicant;
  - 5.1.16.1.5 has failed to disclose or states falsely any information required in the application;
  - 5.1.16.1.6 has been found in violation of statutes or rules governing racing in this state or other jurisdictions;
  - 5.1.16.1.7 has racing disciplinary charges pending in this state or other jurisdictions;
  - 5.1.16.1.8 has been or is currently excluded from association grounds by a recognized racing jurisdiction;
  - 5.1.16.1.9 has had a license denied, suspended or revoked by any racing jurisdiction;
  - 5.1.16.1.10 is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;
  - 5.1.16.1.11 demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;
  - 5.1.16.1.12 is ineligible for employment pursuant to federal or state law because of age or citizenship; or
  - 5.1.16.1.13 has violated any of the alcohol or substance abuse provisions outlined in these rules.
- 5.1.16.2 A license suspension or revocation shall be reported in writing to the applicant and the United States Trotting Association whereby other racing jurisdictions shall be advised.
- 5.1.17 License Restrictions, Limitations and Conditions. The Commission or its designee, for cause, may restrict, limit or place conditions on any license.
- 5.1.18 Duration of License
  - 5.1.18.1 Licenses are valid for such other period as permitted by the Commission.
  - 5.1.18.2 A license is valid only under the condition that the licensee remains eligible to hold such license.
- 5.1.19 Changes in Application Information. During the period for which a license has been issued, the licensee shall report to the Commission changes in information provided on the license applications as to current legal name, marital status, permanent address, criminal convictions, license suspensions of 10 days or more or license revocations or fines of \$500 or more in other jurisdictions.
- 5.1.20 Temporary Licenses. The Commission may establish provisions for temporary licenses or may permit applicants to participate in racing pending action on an application.
- 5.1.21 More Than One License. More than one license to participate in horse racing may be granted to a person except when prohibited by these rules due to a potential conflict of interest.
- 5.1.22 Conflict of Interest
  - 5.1.22.1 The Commission or its designee shall refuse, deny, suspend or revoke the license of a person whose spouse holds a license and which the Commission or judges find to be a conflict of interest.
  - 5.1.22.2 A commissioner or Commission employee or racing official shall not be an owner of a horse entered to race, and shall not accept breeder awards at, a race meeting where the Commission has jurisdiction.
  - 5.1.22.3 A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official with respect to that race.
  - 5.1.22.4 A person who is licensed as an owner or trainer, or has any financial interest in a horse registered for racing at a race meeting in Delaware shall not be employed or licensed at that race meeting as a racing official; racetrack managing employee; photo finish operator; racing chemist or testing laboratory employee.
- 5.1.23 License Presentation
  - 5.1.23.1 A person shall present an appropriate license to enter a restricted area.
  - 5.1.23.2 The Presiding Judge may require visible display of a license in a restricted area.
  - 5.1.23.3 A license may only be used by the person to whom it is issued.
- 5.1.24 Visitor's Pass. Track security may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. A copy of the written approval shall be filed with the Commission or its designee within 48 hours. Such authorization or credential may only be used by the person to whom it is issued.

#### 5.1.25 Safety Helmets and Vests

5.1.25.1 Safety Helmets: A protective helmet, meeting the Snell Foundation standards for protective harness racing headwear, securely fastened under the chin, must be worn at all times on association grounds when:

5.1.25.1.1 racing, parading or warming up a horse prior to racing; or

5.1.25.1.2 jogging, training or exercising a horse at any time.

5.1.25.2 Safety Vests: A safety vest approved by the Delaware Harness Racing Commission must be worn by all person at all times when on the main track whether for jogging, exercising, qualifying or racings.

5.1.25.3 A violation of this rule shall result in a suspension or fine and the participant may be referred to the Commission.

#### 5.1.26 Knowledge of Rules

5.1.26.1 A licensee shall be knowledgeable of the rules of the Commission; and by acceptance of the license, agrees to abide by the rules.

5.1.26.2 A licensee shall report to track security or to the judges any knowledge he has that a violation of these rules has occurred or may occur.

#### 5.1.27 Standards of Conduct

5.1.27.1 No licensee shall use improper language to any race official, or be guilty of any improper conduct toward such officials or persons serving under their orders, such improper language or conduct having reference to the administration of the course, or of any race.

5.1.27.2 No licensee shall commit an assault, or an assault and battery, upon any driver, trainer, groom, racing official or Commission appointee on the grounds of a racing association, or upon a racing official or Commission appointee who is in the performance of his official duties, nor shall any licensee threaten to do bodily or other injury to any driver, trainer, groom, racing official or Commission appointee, nor shall any licensee address to any such person language which is outrageously insulting.

5.1.27.3 If any licensee shall threaten, or join with others in threatening, not to race, or not to declare in, because of the entry of a certain horse or horses, or of a particular stable, thereby compelling or trying to compel the Racing Secretary to reject certain eligible entries, it shall be reported immediately to the Presiding Judge, and the offending parties may be suspended by the Presiding Judge pending a hearing before the Commission.

5.1.27.4 No owner, agent, trainer or driver who has entered a horse shall thereafter demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.

5.1.27.5 No owner, trainer or driver of a horse shall bet or cause any other person to bet on his behalf on any other horse in any race in which there shall be a horse owned, trained or driven by him, or which he in anywise represents or handles or in which he has an interest; provided, however, that such a person may participate in multiple pool wagering on a race in which his horse is included in the wager only in the first (winning) position.

5.1.27.6 If any licensee shall be approached with any offer or promise of a bribe, or a wager or with a request or suggestion for a bribe, or for any improper, corrupt or fraudulent act in relation to racing, or that any race shall be conducted otherwise than fairly and honestly, it shall be the duty of such licensee to report the details thereof immediately to the Presiding Judge.

5.1.27.7 Any misconduct on the part of a licensee or patron, fraudulent in its nature or injurious to racing, although not specified in these rules, is forbidden. Any licensee or other person who, individually or in concert with one another, shall fraudulently and corruptly, by any means, affect the outcome of any race or affect a false registration, or commit any other act injurious to racing, shall be guilty of a violation of these rules.

5.1.27.8 If two or more persons combine and confederate together, in any manner, regardless of where the said persons may be located, for the purpose of violating any of the Rules and Regulations of the Commission, and shall commit some act in furtherance of the said purpose or plan, it shall constitute a conspiracy and a violation of these rules.

5.1.27.9 In any case where an oath is administered by the judges, by the Presiding Judge, by the Commission or by a hearing officer thereof, under these rules, or by a Notary Public and any other person legally authorized to administer oaths, if the party knowingly swears falsely or withholds information pertinent to the investigation, he shall be fined, suspended, or both, or expelled.



- 5.1.27.10 The Commission may impose a fine or suspension on, or may refuse to license, any person subject to the jurisdiction of the Commission if the Commission finds that such person:
- 5.1.27.10.1 Is associating, consorting or negotiating with bookmakers, touts or other persons of similar pursuits; or
  - 5.1.27.10.2 Is associating, consorting or negotiating with persons who have been convicted of a crime; or
  - 5.1.27.10.3 Is guilty of fraud or has attempted any fraud or misrepresentation in connection with racing, breeding or otherwise; or
  - 5.1.27.10.4 Has violated any law, rule or regulation with respect to racing in any jurisdiction; or
  - 5.1.27.10.5 Has violated any rule, regulation or order of the Commission; or
  - 5.1.27.10.6 Is of such experience, character or general unfitness that the person's participation in harness racing or related activities would be inconsistent with the public interest, convenience or necessity, or with the best interests of racing generally.
- 5.1.27.11 The Commission may refuse admission to race meeting grounds, and/or may eject from the enclosure of a race track operated by any association, any person whose presence there is, in the judgment of the Commission, inconsistent with the orderly or proper conduct of a race meeting, or whose presence or conduct is deemed detrimental to the best interests of harness racing.
- 5.1.27.12 Any person, whether a licensee or a patron, may be expelled from the enclosure of a race track operated by any association for any violation of Rule 5.1.27.
- 5.1.27.13 All licensees, officials and appointees of the Commission, and all employees of any association, are required to conduct themselves in a forthright and courteous manner at all times while on or near the premises of an association during the operation of a licensed harness race meeting. The Commission at any time may require the removal of any licensee, official, appointee or employee whose conduct does not comport with this requirement.
- 5.1.27.14 Licensees tampering with eligibility certificates may be fined, or their licenses may be suspended or revoked. Further, any winnings of such licensees in races in which a horse was entered whose eligibility certificate was tampered with by such licensee may be ordered forfeited.

## 5.2 Owners

### 5.2.1 Licensing Requirements for Owners

- 5.2.1.1 Each person who has an ownership or beneficial interest in a horse is required to be licensed.
- 5.2.1.2 An applicant for an owner's license shall own or lease a horse which is eligible to race, registered with the racing secretary and under the care of a trainer licensed by the Commission. An owner shall notify the judges of a change in trainer of his horse. A horse shall not be transferred to a new trainer after entry.
- 5.2.1.3 The provisions of 5.1.4 notwithstanding, a person younger than 14 years of age may apply for an owner's license, provided that no licensed owner younger than 14 years of age will be permitted paddock access at any licensed association. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from his parent or legal guardian stating that the parent or legal guardian expressly assumes responsibility for the applicant's financial, contractual and other obligations relating to the applicant's participation in racing.
- 5.2.1.4 If the Commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.
- 5.2.1.5 Horses not under lease must race in the name of the bona fide owner. Each owner shall comply with all licensing requirements.
- 5.2.1.6 The Commission or its designee may refuse, deny, suspend or revoke an owner's license for the spouse or member of the family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Commission rule or ruling is prohibited.

### 5.2.2 Licensing Requirements for Multiple Owners

- 5.2.2.1 If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall be licensed as required in 5.1.1 of this section.

- 5.2.2.2 Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Commission all owners holding a five percent or greater beneficial interest, unless otherwise required by the Commission.
- 5.2.2.3 Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
- 5.2.2.4 To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the Commission.
- 5.2.2.5 Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
- 5.2.2.6 The written appointment of a managing owner or authorized agent shall be filed with the United State Trotting Association or Canadian Trotting Association and with the Commission.
- 5.2.3 Lease Agreements. A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Commission is attached to the certificate of registration and on file with the Commission. The lessor and lessee shall be licensed as horse owners. For purposes of issuance of eligibility certificates and/or transfers of ownership, a lease for an indefinite term shall be considered terminable at the will of either party unless extended or reduced to a term certain by written documentation executed by both lessor and lessee.
- 5.2.4 Racing Colors. Drivers must wear distinguishing colors, and shall not be permitted to drive in a race or other public performance unless, in the opinion of the judges, they are properly dressed, their driving outfits are clean and they are well groomed. During inclement weather conditions, drivers must wear rain suits in either of their colors or made of a transparent material through which their colors can be distinguished.

### 5.3 Trainers

#### 5.3.1 Eligibility

- 5.3.1.1 A person shall not train horses, or be programmed as trainer of record at extended meetings, without first having obtained a trainer license valid for the current year by meeting the standards for trainers, as laid down by the United State Trotting Association, and being licensed by the Commission. The "trainer of record" shall be any individual who receives compensation for training the horse. The holder of a driver's license issued by the United States Trotting Association is entitled to all privileges of a trainer and is subject to all rules respecting trainers.
- 5.3.1.2 Valid categories of licenses are:
  - 5.3.1.2.1 "A," a full license valid for all meetings and permitting operation of a public stable.; and
  - 5.3.1.2.2 "L," a license restricted to the training of horses while owned by the holder and/or his or her immediate family at all race meetings.
- 5.3.1.3 If more than one person receives any form of compensation, directly or indirectly, for training the horse, then the principal trainer or trainers must be listed as "trainer of record". It shall be a violation for the principal trainer or trainers of a horse not to be listed as "trainer of record", and, if such unlisted principal trainer or trainers are licensees of the Commission, then he, she or they shall be subject to a fine and/or suspension for such violation. In addition, it shall be a violation for a person who is not the principal trainer of the horse to be listed as "trainer of record", and such person shall be subject to a fine and/or suspension for such violation. Principal trainers and programmed trainers shall be equally liable for all rule violations. For purposes of this rule, the Steward and judges shall use the following criteria in determining the identity of the principal trainer or trainers of a horse:
  - 5.3.1.3.1 The identity of the person who is responsible for the business decisions regarding the horse, including, but not limited to, business arrangements with and any payments to or from owners or other trainers, licensed or otherwise, veterinarians, feed companies, hiring and firing of employees, obtaining workers' compensation or proof of adequate insurance coverage, payroll, horsemen's bookkeeper, etc.;
  - 5.3.1.3.2 The identity of the person responsible for communicating, or who in fact does communicate, with the racing secretary's office, stall manager, association and track management, owners,

etc. regarding racing schedules and other matters pertaining to the entry, shipping and racing of the horse;

5.3.1.3.3 The identity of the person responsible for the principal conditioning of the horse;

5.3.1.3.4 The identity of the person responsible for race day preparation including, but not limited to, accompanying the horse to the paddock or ship-in barn, selection of equipment, authority to warm up the horse before the public, discussion with the driver of race strategy, etc.; and

5.3.1.3.5 The identity of the person who communicates on behalf of the owner with the Steward, judges and other Commission personnel regarding the horse, including regarding any questions concerning the location or condition of the horse, racing or medication violations, etc.

#### 5.3.2 Trainer Responsibility

5.3.2.1 A trainer is responsible for the condition of horses entered in an official 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.

5.3.2.2 A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

5.3.2.3 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.

#### 5.3.3 Other Responsibilities. A trainer is responsible for:

5.3.3.1 the condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

5.3.3.2 maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

5.3.3.3 ensuring that fire prevention rules are strictly observed in the assigned stable area;

5.3.3.4 providing a list to the Commission of the trainer's employees on association grounds and any other area under the jurisdiction of the Commission. The list shall include each employee's name, occupation, social security number and occupational license number. The Commission shall be notified by the trainer, in writing, within 24 hours of any change;

5.3.3.5 the proper identity, custody, care, health, condition and safety of horses in his charge;

5.3.3.6 disclosure of the true and entire ownership of each horse in his care, custody or control;

5.3.3.7 registering with the racing secretary each horse in his charge within 24 hours of the horse's arrival on association grounds;

5.3.3.8 ensuring that, at the time of arrival at a licensed racetrack, each horse in his care is accompanied by a valid health certificate which shall be filed with the racing secretary;

5.3.3.9 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/provincial law and for filing evidence of such negative test results with the racing secretary;

5.3.3.10 using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds;

5.3.3.11 immediately reporting the alteration of the sex of a horse in his care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;

5.3.3.12 promptly reporting to the Presiding Judge, racing secretary and the State veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

5.3.3.13 promptly notifying the State veterinarian of any reportable disease and any unusual incidence of a communicable illness of any horse in his charge;

5.3.3.14 promptly reporting the death of any horse in his care on association grounds to the judges and the State veterinarian and compliance with the rules in Chapter 8 governing post-mortem examinations;

5.3.3.15 maintaining a knowledge of the medication record and status of all horses in his care;

- 5.3.3.16 immediately reporting to the Presiding Judge and the State veterinarian if he knows, or has cause to believe, that a horse in his custody, care or control has received any prohibited drugs or medication;
- 5.3.3.17 representing an owner in making entries and scratches and in all other matters pertaining to racing;
- 5.3.3.18 horses entered as to eligibility and allowances claimed;
- 5.3.3.19 ensuring the fitness of a horse to perform creditably at the distance entered;
- 5.3.3.20 ensuring that his horses are properly prepared and equipped;
- 5.3.3.21 presenting his horse in the paddock at a time prescribed by the Presiding Judge before the race in which the horse is entered;
- 5.3.3.22 personally attending to his horses in the paddock and supervising the preparation thereof, unless excused by the Paddock Judge;
- 5.3.3.23 attending the collection of a urine or blood sample from the horse in his charge or delegating a licensed employee or the owner of the horse to do so; and
- 5.3.3.24 notifying horse owners upon the revocation or suspension of his trainer's license. Upon application by the owner, the Presiding Judge may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.
- 5.3.4 Restrictions on Wagering. A trainer shall only be allowed to wager on his horse or entries to win or finish first in combination with other horses.
- 5.3.5 Substitute Trainers. If any licensed trainer is to be absent from the association grounds where his horse is programmed to race the Presiding Judge shall be immediately notified and at that time a licensed substitute trainer, acceptable to the Presiding Judge, shall be appointed to assume responsibility for the horse(s) racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible.

#### 5.4 Owners' Authorized Agents

##### 5.4.1 Licenses Required

- 5.4.1.1 An authorized agent shall obtain a license from the Commission.
- 5.4.1.2 Application for license shall be filed for each owner represented.
- 5.4.1.3 A written instrument signed by the owner shall accompany the application and shall clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument shall be acknowledged before a notary public.
- 5.4.1.4 If the written instrument is a power of attorney it shall be filed with the Commission and attached to the regular application form.
- 5.4.1.5 Any changes shall be made in writing and filed as provided in 5.4.1.3 above.
- 5.4.1.6 The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Commission whereupon the license shall not be valid.

##### 5.4.2 Powers and Duties

- 5.4.2.1 A licensed authorized agent may perform on behalf of the licensed owner-principal all acts as relate to racing, as specified in the agency appointment, that could be performed by the principal if such principal were present.
- 5.4.2.2 In executing any document on behalf of the principal, the authorized agent shall clearly identify the authorized agent and the owner-principal.
- 5.4.2.3 When an authorized agent enters a claim for the account of a principal, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip or card.
- 5.4.2.4 Authorized Agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority at a race meeting. Any change in ownership shall be reported immediately to, and approved by, the judges and recorded by the United States Trotting Association.

#### 5.5 Drivers

- 5.5.1 A person shall not drive a horse in any race or performance against time, other than an exhibition race, without having first obtained a driver license valid for the current year by meeting the standards as established by the United States Trotting Association and being licensed by the Commission. The driver license shall be presented to the judges prior to participating for the first time at any race meeting.
- 5.5.2 The judges may review the performance of a driver at any time and may take the following actions:

- 5.5.2.1 amend the license category;
- 5.5.2.2 revoke the license;
- 5.5.2.3 apply conditions to the license; or
- 5.5.2.4 require the driver to re-qualify for his license in accordance with the United States Trotting Association regulations.

5.5.3 Drivers must report to the Paddock Judge at least one hour before post time of any race in which they are programmed to drive, unless excused by the Presiding Judge.

5.5.4 Where advanced wagering takes place on any feature betting race, drivers programmed to drive in such races must make their presence known to the Paddock Judge prior to commencement of the advanced wagering.

5.5.5 A driver cannot decline to be substituted by the judges. Any driver who refuses shall be suspended and may be fined.

5.5.6 Once a driver reports to the paddock he shall not enter the public stands or the betting area until his driving duties for the day have been completed and upon completion of driving duties the driver shall not enter the public stands until he has replaced his driving outfit with ordinary clothing.

5.5.7 The judges may remove a driver at any time if, in his or their opinion, his driving would not be in the best interests of harness racing.

5.5.8 A driver shall not drive for any other person in a race in which one of the horses he trains or owns has been declared into race, except where such horses are coupled as an entry.

5.5.9 Drivers shall fulfill all engagements, unless excused by the judges.

**1 DE Reg. 502 (11/01/97)**

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

**10 DE Reg. 1422 (03/01/07)**

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

**13 DE Reg. 1253 (04/01/10)**

**14 DE Reg. 23 (07/01/10)**

**14 DE Reg. 894 (03/01/11)**

## **6.0 Types of Races**

### **6.1 Types of Races Permitted**

In presenting a program of racing, the racing secretary shall use exclusively the following types of races:

#### **6.1.1 Overnight events which include:**

- 6.1.1.1 Conditioned races;
- 6.1.1.2 Claiming races;
- 6.1.1.3 Preferred, invitational, handicap, open or free-for-all races;

#### **6.1.2 Added money events which include:**

- 6.1.2.1 Stakes;
- 6.1.2.2 Futurities;
- 6.1.2.3 Early closing events; and
- 6.1.2.4 Late closing events

#### **6.1.3 Match races**

#### **6.1.4 Qualifying Races (See Rule 7.0 -- "Rules of the Race")**

#### **6.1.5 Delaware-owned or bred races as specified in 3 Del.C. §10032**

### **6.2 Overnight Events**

#### **6.2.1 General Provisions**

- 6.2.1.1 For the purpose of this rule, overnight events shall include conditioned, claiming, preferred, invitational, handicap, open, free-for-all, or a combination thereof.
- 6.2.1.2 Condition sheets must be available to participants at least 18 hours prior to closing declarations to any race program contained therein.
- 6.2.1.3 A fair and reasonable racing opportunity shall be afforded both trotters and pacers in reasonable proportion from those available and qualified to race.
- 6.2.1.4 Substitute races may be provided for each race program and shall be so designated on condition sheets. A substitute race may be used when a regularly scheduled race fails to fill.

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

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

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

6.2.1.5.3 However, where necessary to fill a card, not more than three races per day may be divided into not more than three divisions after preference has been applied. The divisions may be selected by the racing secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

## 6.2.2 Conditions

6.2.2.1 Conditions may be based only on:

6.2.2.1.1 horses' money winnings in a specified number of previous races or during a specified previous time;

6.2.2.1.2 horses' finishing positions in a specified number of previous races or during a specified period of time;

6.2.2.1.3 age, provided that no horse that is 15 years of age or older shall be eligible to perform in any race except in a matinee race;

6.2.2.1.4 sex;

6.2.2.1.5 number of starts during a specified period of time;

6.2.2.1.6 special qualifications for foreign horses that do not have a representative number of starts in the United States or Canada;

6.2.2.1.7 horse's race condition in a specified number of previous races or during a specified period of time;

6.2.2.1.8 claiming price in a horse's last one to three previous races;

6.2.2.1.9 Delaware-owned or bred races as specified in 3 **Del.C.** §10032; or

6.2.2.1.10 Delaware Owned or Bred Preferred.

6.2.2.1.11 any one or more combinations of the qualifications herein listed.

6.2.2.2 Conditions shall not be written in such a way that any horse is deprived of an opportunity to race in a normal preference cycle. Where the word preference is used in a condition, it shall not supersede date preference as provided in the rules except when written Delaware Owned or Bred Preferred. Not more than three also eligible conditions shall be used in writing the conditions for overnight events.

6.2.2.3 The Commission may, upon application from the racing secretary, approve conditions other than those listed above for special events.

6.2.2.4 In the event there are conflicting published conditions and neither one nor the other is withdrawn by the Association, the one more favorable to the declarer shall govern.

6.2.2.5 For the purpose of eligibility, a racing season or racing year shall be the calendar year. All races based on winnings will be programmed as Non-Winners of a multiple of \$100 plus \$1 or Winners over a multiple of \$100. Additional conditions may be added. When recording winnings, gross winnings shall be used and cents shall be disregarded. In the case of a bonus, the present value of the bonus shall be credited to the horse as earnings for the race or series of races for which it received the bonus. It shall be the responsibility of the organization offering the bonus to report the present value of the bonus to the United States Trotting Association in a timely manner.

6.2.2.6 Records, time bars shall not be used as a condition of eligibility.

6.2.2.7 Horses must be eligible when declarations close subject to the provision that:

6.2.2.7.1 Wins and winnings on or after the closing date of declarations shall not be considered;

6.2.2.7.2 Age allowances and eligibility shall be according to the age of the horse on the date the race is contested.

6.2.2.7.3 In mixed races, trotting and pacing, a horse must be eligible under the conditions for the gait at which it is stated in the declaration the horse will perform.

- 6.2.2.8 When conditions refer to previous performances, those performances shall only include those in a purse race. Each dash or heat shall be considered as a separate performance for the purpose of condition races.
- 6.2.2.9 In overnight events, on a half mile racetrack there shall be no trailing horses. On a bigger racetrack there shall be no more than one trailing horse. At least eight feet per horse must be provided the starters in the front tier.
- 6.2.2.10 The racing secretary may reject the declaration to an overnight event of any horse whose past performance indicates that it would be below the competitive level of other horses declared to that particular event.

#### 6.3.1 General Provisions

- 6.3.1.1 Claiming Procedure and Determination of Claiming Price. The trainer or authorized agent entering a horse in a claiming race warrants that he has authorization from the registered owner(s) to enter said horse in a claiming race for the designated amount. In the event of a claim, the owner(s) or authorized agent shall submit a signed registration to the Presiding Judge prior to receiving proceeds from the claim and the registration shall be immediately forwarded to the U.S.T.A. registrar for transfer.
- 6.3.1.2 Except for the lowest claiming price offered at each meeting, conditions and allowances in claiming races may be based only on age and sex. Whenever possible, claiming races shall be written to separate horses five years old and up from young horses and to separate males from females. Mares shall be given a price allowance; provided, however, that there shall be no price allowance given to a spayed mare racing in a claiming race.
- 6.3.1.3 Registration certificate in current ownership, together with the application for transfer thereon duly endorsed by all registered owners, must be filed in the office of the racing secretary for all horses claimed within a reasonable time after the race from which the horse was claimed.
- 6.3.1.4 The price allowances that govern for claiming races must be approved by the Commission. Claiming prices recorded on past performance lines in the daily race program and on eligibility certificates shall not include allowances.
- 6.3.1.5 The claiming price, including any allowances, of each horse shall be printed on the official program adjacent to the horse's program number and claims shall be for the amount designated, subject to correction if printed in error.
- 6.3.1.6 In handicap claiming races, in the event of an also eligible horse moving into the race, the also eligible horse shall take the place of the horse that it replaces provided that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap, except when the horse that is scratched is a trailing horse, in which case the also eligible horse shall take the trailing position, regardless of its handicap. In handicap claiming races with one trailer, the trailer shall be determined as the fourth best post position.
- 6.3.1.7 To be eligible to be claimed a horse must start in the event in which it has been declared to race, except as provided in 6.3.1.8 of this subsection.
- 6.3.1.8 The successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse, even though such claimed horse was scratched and did not start in the claiming race from which it was scratched. The successful claimant must exercise his option by noon of the next day following the claiming race to which the horse was programmed and scratched. Upon notification that the successful claimant has exercised his option, the owner shall present the horse for inspection, and the claim shall not be final until the successful claimant has had the opportunity to inspect the horse. No horse may be claimed from a claiming race unless the race is contested.
- 6.3.1.9 Any licensed owner or the authorized agent of such person who holds a current valid Commission license may claim any horse or any person who has properly applied for and been granted a claiming certificate shall be permitted to claim any horse. Any person or authorized agent eligible to claim a horse may be allowed access to the grounds of the Association, excluding the paddock, in order to effect a claim at the designated place of making claims and to take possession of the horse claimed.
- 6.3.1.10 Claiming certificates are valid for a 30 day period from the date of issuance. These certificates may be applied for at the office designated by the Association prior to post time on any day of racing.
- 6.3.1.11 There shall be no change of ownership or trainer once a horse is programmed.

## 6.3.2 Prohibitions on Claims

- 6.3.2.1 A person shall not claim directly or indirectly his own horse or a horse trained or driven by him or cause such horse to be claimed directly or indirectly for his own account.
- 6.3.2.2 A person shall not directly or indirectly offer, or directly or indirectly enter into an agreement, to claim or not to claim or directly or indirectly attempt to prevent another person from claiming any horse in a claiming race.
- 6.3.2.3 A person shall not have more than one claim on any one horse in any claiming race.
- 6.3.2.4 A person shall not directly or indirectly conspire to protect a horse from being claimed by arranging another person to lodge claims, a procedure known as protection claims.
- 6.3.2.5 No qualified owner or his agent shall claim a horse for another person.
- 6.3.2.6 No person shall enter in a claiming race a horse against which there is a mortgage, bill or sale, or lien of any kind, unless the written consent of the holder thereof shall be filed with the Clerk of the Course of the association conducting such claiming race.
- 6.3.2.7 Any mare which has been bred shall not be declared into a claiming race for at least 30 days following the last breeding of the mare, and thereafter such a mare may only be declared into a claiming race after a veterinarian has pronounced the mare not to be in foal. Any mare pronounced in foal shall not be declared into a claiming race. Where a mare is claimed out of a claiming race and subsequently proves to be in foal from a breeding which occurred prior to the race from which she was claimed, the claim may be voided by the judges at the option of the successful claimant provided the mare is subjected to a pregnancy examination within 18 days of the date of the claim, and is found pregnant as a result of that pregnancy examination. A successful claimant seeking to void the claim must file a petition to void said claim with the judges within 10 days after this pregnancy examination and shall thereafter be heard by the judges after due notice of the hearing to the parties concerned.
- 6.3.2.8 No one shall claim more than one horse in a race either alone, in a partnership, corporation or other legal entity.
- 6.3.2.9 If a horse is claimed, no right, title or interest therein shall be sold or transferred except in a claiming race for a period of thirty (30) days following the date of the claiming.

## 6.3.3 Claiming Procedure

- 6.3.3.1 A person desiring to claim a horse must have the required amount of money, on deposit with the Association at the time the completed claim form is deposited. The deposit shall be in cash or may be in a certified check at the discretion of the Association. The Association may require that a certified check clear the bank upon which it was drawn and funds transferred to the Association's account prior to the credit being "established."
- 6.3.3.2 The claimant shall provide all information required on the claim form provided by the Commission, including any and all testing requests.
- 6.3.3.3 The claim form shall be completed and signed by the claimant prior to placing it in an envelope provided for this purpose by the Association and approved by the Commission. The claimant shall seal the envelope and identify on the outside the date, time of day, race number and track name only.
- 6.3.3.4 The envelope shall be delivered to the designated area, or licensed delegate, at least thirty (30) minutes before post time of the race from which the claim is being made. That person shall certify on the outside of the envelope the time it was received.
- 6.3.3.5 It shall be the responsibility of the Association to ensure that all such claim envelopes are delivered unopened or otherwise undisturbed to the judges prior to the race from which the claim is being made. The Association shall provide for an agent who shall, immediately after closing, deliver the claim to the judges' stand.
- 6.3.3.6 The claim shall be opened and the claims, if any, examined by the judges prior to the start of the race. The Association's auditor, or his agent, shall be prepared to state whether the claimant has on deposit, the amount equivalent to the specified claiming price and any other required fees and taxes.
- 6.3.3.7 The judges shall disallow any claim made on a form or in a manner which fails to comply with all requirements of this rule.
- 6.3.3.8 Documentation supporting all claims for horses, whether successful or unsuccessful, shall include details of the method of payment either by way of a photostatic copy of the check presented, or written detailed information to include the name of the claimant, the bank, branch, account number and drawer of any checks or details of any other method of payment. This documentation is to be



kept on file at race tracks for three (3) years and is to be produced to the Commission for inspection at any time during the period.

- 6.3.3.9 When a claim has been lodged it is irrevocable, unless otherwise provided for in these rules.
- 6.3.3.10 In the event more than one claim is submitted for the same horse, the successful claimant shall be determined by lot by the judges, and all unsuccessful claims involved in the decision by lot shall, at that time, become null and void, notwithstanding any future disposition of such claim.
- 6.3.3.11 Upon determining that a claim is valid, the judges shall notify the paddock judge of the name of the horse claimed, the name of the claimant and the name of the person to whom the horse is to be delivered. Also, the judges shall cause a public announcement to be made.
- 6.3.3.12 Every horse entered in a claiming race shall race for the account of the owner who declared it in the event, but title to a claimed horse shall be vested in the successful claimant from the time the horse is deemed to have started, and the successful claimant shall become the owner of the horse, whether it be alive or dead, or sound or unsound, or injured during or after the race.
- 6.3.3.13 A post-race test may be taken from any horse claimed out of a claiming race. The trainer of the horse at the time of entry for the race from which the horse was claimed shall be responsible for the claimed horse until the post-race sample is collected. The successful claimant shall have the right to void the claim should the forensic analysis be positive for any prohibited substance or an illegal level of a permitted medication, or if a blood sample exhibits a positive response to Darbepoietin (DPO), the Erythropoietin (EPO) in itself, or through an antibody test. The claimed horse may be entered to race while results are pending, but not be permitted to race until the approved laboratory chemist notifies the DHRC on his findings in the samples taken from the horse.
- 6.3.3.14 Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended, together with the horse, until delivery is made. The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation of these rules.
- 6.3.3.15 No horse claimed out of a claiming race shall be eligible to start in any race in the name or interest of the prior owner for 30 days, nor shall such horse remain in the same stable or under the care or management of the prior owner or trainer, or anyone connected therewith unless reclaimed out of another claiming race. Further, such claimed horse shall only be eligible to enter in races in the state of Delaware for a period of 60 days following the date of the claim, unless released in writing by an authorized representative of the Association.
- 6.3.3.16 The claiming price shall be paid to the owner of the horse at the time entry for the race from which the horse was claimed only when the judges are satisfied that the successful claim is valid and the registration has been received by the racing secretary for transfer to the new owner and the Presiding Judge has signed a release notice of horse claimed and application for transfer form.
- 6.3.3.17 The judges shall rule a claim invalid:
  - 6.3.3.17.1 at the option of the claimant if the official racing chemist reports a positive test on a horse that was claimed, provided such option is exercised within 24 hours following notification to the claimant of the positive test by the judges;
  - 6.3.3.17.2 if the horse has been found ineligible to the event from which it was claimed, regardless of the position of the claimant.
- 6.3.3.18 Mares and fillies who are in foal are ineligible to claiming races. Upon receipt of the horse, if a claimant determines within 48 hours that a claimed filly or mare is in foal, he may, at their option, return the horse to the owner of the horse at the time of entry for the race from which the horse was claimed.
- 6.3.3.19 When the judges rule that a claim is invalid and the horse is returned to the owner of the horse at the time of entry for the race in which the invalid claim was made:
  - 6.3.3.19.1 the amount of the claiming price and any other required fees and/or taxes shall be repaid to the claimant;
  - 6.3.3.19.2 any purse monies earned subsequent to the date of the claim and before the date on which the claim is ruled invalid shall be the property of the claimant; and
  - 6.3.3.19.3 the claimant shall be responsible for any reasonable costs incurred through the care, training or racing of the horse while it was in his possession.

#### 6.4 Added Money Events

##### 6.4.1 General Provisions

- 6.4.1.1 For the purpose of this rule, added money events include stakes, futurities, early closing events and late closing events.

6.4.1.2 All sponsors and presenters of added money events must comply with the rules and must submit to the Commission the conditions and other information pertaining to such events.

6.4.1.3 Any conditions contrary to the provisions of any of these rules are prohibited.

#### 6.4.2 Conditions

Conditions for added money events must specify:

6.4.2.1 which horses are eligible to be nominated;

6.4.2.2 the amount to be added to the purse by the sponsor or presenter, should the amount be known at the time;

6.4.2.3 the dates and amounts of nomination, sustaining and starting payments;

6.4.2.4 whether the event will be raced in divisions or conducted in elimination heats, and;

6.4.2.5 the distribution of the purse, in percent, to the money winners in each heat or dash, and the distribution should the number of starters be less than the number of premiums advertised; and

6.4.2.6 whether also eligible horses may be carded prior to the running heats or legs of added money events.

#### 6.4.3 Requirements of Sponsors/Presenters

6.4.3.1 Sponsors or presenters of stakes, futurities or early closing events shall provide a list of nominations to each nominator or owner and to the Associations concerned within sixty (60) days after the date on which nominations close, other than for nominations payable prior to January 1st of a horse's two-year-old year.

6.4.3.2 Sponsors or presenters of stakes, futurities or early closing events shall also provide a list of horses remaining eligible to each owner of an eligible within 45 days after the date on which sustaining payments are payable. All lists shall include a resume of the current financial status of the event.

6.4.3.3 The Commission may require the sponsor or presenter to file with the Commission a surety bond in the amount of the fund to ensure faithful performance of the conditions, including a guarantee that the event will be raced as advertised and all funds will be segregated and all premiums paid. Commission consent must be obtained to transfer or change the date of the event, or to alter the conditions. In any instance where a sponsor or presenter furnishes the Commission with substantial evidence of financial responsibility satisfactory to the Commission, such evidence may be accepted in lieu of a surety bond.

#### 6.4.4 Nominations, Fees and Purses

6.4.4.1 All nominations to added money events must be made in accordance with the conditions.

6.4.4.2 Dates for added money event nominations payments are:

6.4.4.2.1 Stakes: The date for closing of nominations on yearlings shall be May 15th. The date foreclosing of nominations to all other stakes shall fall on the fifteenth day of a month.

6.4.4.2.2 Early Closing Events: The date for closing of nominations shall fall on the first or fifteenth day of a month. Nominations on two-year-olds shall not be taken prior to February 15th.

6.4.4.2.3 Late Closing Events: The date for closing of nominations shall be at the discretion of the sponsor or presenter.

6.4.4.3 Dates for added money event sustaining payments are:

6.4.4.3.1 Stakes: Sustaining payments shall fall on the fifteenth day of a month. No stake sustaining fee shall become due prior to (Month) 15th of the year in which the horses nominated become two years of age.

6.4.4.3.2 Early and Late Closing Events: Sustaining payments shall fall on the first or fifteenth day of a month.

6.4.4.4 The starting fee shall become due when a horse is properly declared to start and shall be payable in accordance with the conditions of the added money event. Once a horse has been properly declared to start, the starting fee shall be forfeited, whether or not the horse starts. Should payment not be made thirty (30) minutes before the post time of the event, the horse may be scratched and the payment shall become a liability of the owner who shall, together with the horse or horses, be suspended until payment is made in full, providing the Association notifies the Commission within thirty (30) days after the starting date.

6.4.4.5 Failure to make any payment required by the conditions constitutes an automatic withdrawal from the event.

- 6.4.4.6 Conditions that will eliminate horses nominated to an event, or add horses that have not been nominated to an event by reason of performance of such horses at an earlier meeting, are invalid. Early and late closing events shall have not more than two also eligible conditions.
- 6.4.4.7 The date and place where early and late closing events will be raced must be announced before nominations are taken. The date and place where stakes and futurities will be raced must be announced as soon as determined but, in any event, such announcement must be made no later than March 30th of the year in which the event is to be raced.
- 6.4.4.8 Deductions may not be made from nomination, sustaining and starting payments or from the advertised purse for clerical or any other expenses.
- 6.4.4.9 Every nomination shall constitute an agreement by the person making the nomination and the horse shall be subject to these rules. All disputes and questions arising out of such nomination shall be submitted to the Commission, whose decision shall be final.
- 6.4.4.10 Nominations and sustaining payments must be received by the sponsor or presenter not later than the hour of closing, except those made by mail must bear a postmark placed thereon not later than the hour of closing. In the event the hour of closing falls on a Saturday, Sunday or legal holiday, the hour of closing shall be extended to the same hour of the next business day. The hour of closing shall be midnight of the due date.
- 6.4.4.11 If conditions require a minimum number of nominations and the event does not fill, the Commission and each nominator shall be notified within twenty (20) days of the closing of nominations and a refund of nomination fees shall accompany such notice to nominators.
- 6.4.4.12 If conditions for early or late closing events allow transfer for change of gait, such transfer shall be to the lowest class the horse is eligible to at the adopted gait, eligibility to be determined at the time of closing nominations. The race to which the transfer may be made must be the one nearest the date of the event originally nominated to. Two-year-olds, three-year-olds, or four-year-olds, nominated in classes for their age, may only transfer to classes for the same age group at the adopted gait to the race nearest the date of the event they were originally nominated to, and entry fees to be adjusted.
- 6.4.4.13 A nominator is required to guarantee the identity and eligibility of nominations, and if this information is given incorrectly he or she may be fined, suspended, or expelled and the horse declared ineligible. If any purse money was obtained by an ineligible horse, the monies shall be forfeited and redistributed among those justly entitled to the same.
- 6.4.4.14 Early or late closing events must be contested if six or more betting interests are declared to start. If less horses are declared to start than required, the race may be declared off, in which case the total of nominations, sustaining and starting payments received shall be divided equally to the horses declared to start. Such distribution shall not be credited as purse winnings.
- 6.4.4.15 Stakes must be contested if one or more horses are declared to start. In the event only one horse, or only horses in the same interest start, it constitutes a walk-over. In the event no declarations are made, the total of nomination and sustaining payments shall be divided equally to the horses remaining eligible after payment to the last sustaining payment, but such distribution shall not be credited as purse winnings.
- 6.4.4.16 Associations shall provide stable space for each horse on the day of the race.
- 6.4.4.17 The maximum size of fields permitted in any added money event shall be no more than one trailer unless otherwise approved by the Commission.
- 6.4.4.18 An Association may elect to go with less than the number of trailers specified in subdivision 17 above.
- 6.4.4.19 In the event more horses are declared to start than allowed in one field, the race will be conducted in divisions or eliminations, as specified in the conditions.
- 6.4.4.20 In early closing races, late closing races and overnight races requiring entry fees, all monies paid in by the nominators in excess of 85 percent of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the minimum purse. If the race is split and raced in divisions, the provisions of subdivision 21 below shall apply. Provided further that where overnight races are split and raced in eliminations rather than divisions, all starting fees payable under the provisions of this rule shall be added to the advertised purse.
- 6.4.4.21 Where a race other than a stake is divided, each division must race for at least 75 percent of the advertised purse.
- 6.4.4.22 The number of horses allowed to qualify for the final heat of an event conducted in elimination heats shall not exceed the maximum number permitted to start in accordance with the rules. In any

elimination dash where there are horses unable to finish due to an accident and there are fewer horses finishing than would normally qualify for the final, the additional horses qualifying for the final shall be drawn by lot from among those unoffending horses not finishing.

6.4.4.23 The judges' decisions in arriving at the official order of finish of elimination heats on the same program shall be final and irrevocable and not subject to appeal or protest.

6.4.4.24 Unless the conditions for the added money event provide otherwise the judges shall draw by lot the post positions for the final heat in elimination events, i.e. they shall draw positions to determine which of the two elimination heat winners shall have the pole, and which the second position; which of the two horses that were second shall start in the third position, and which in the fourth, etc.

6.5 Cancellation of a Race. In case of cancellation of races, see Rule 7.3 --"Postponement and Cancellation."

6.6 Delaware Owned or Bred Races

6.6.1 Persons licensed to conduct harness horse racing meets under title 3, chapter 100, may offer non-stakes races limited to horses wholly owned by Delaware residents or sired by Delaware stallions.

6.6.2 For purposes of this rule, a Delaware bred horse shall be defined as one sired by a Delaware stallion who stood in Delaware during the entire breeding season in which he covered a book of mares or a horse whose dam was a wholly-owned Delaware brood mare at the time of breeding as shown on the horse's United State Trotting Association registration or electronic eligibility papers. The breeding season means that period of time beginning February 1 and ending August 1 of each year.

6.6.3 All horses to be entered in Delaware owned or bred races must first be registered and approved by the Commission or its designee. The Commission may establish a date upon which a horse must be wholly-owned by a Delaware resident(s) to be eligible to be nominated, entered, or raced as Delaware-owned. In the case of a corporation seeking to enter a horse in a Delaware-owned or bred event as a Delaware-owned entry, all owners, officers, shareholders, and directors must meet the requirements for a Delaware resident specified below. In the case of an Association or other entity seeking to enter a horse in a Delaware owned or bred event as a Delaware-owned entry, all owners must meet the requirements for a Delaware resident specified below. Leased horses are ineligible as Delaware owned entries unless both the lessor and the lessee are Delaware residents as set forth in this Rule and 3 **Del.C.** §10032.

6.6.4 The following actions shall be prohibited for Delaware-owned races and such horses shall be deemed ineligible to be nominated, entered, or raced as Delaware-owned horses:

6.6.4.1 Payment of the purchase price over time beyond the date of registration;

6.6.4.2 Payment of the purchase price through earnings beyond the date of registration;

6.6.4.3 Payment of the purchase price with a loan, other than from a commercial lender regulated in Delaware and balance due beyond the date of registration;

6.6.4.4 Any management fees, agent fees, consulting fees, or any other form of compensation to non-residents of Delaware, except industry standard training and driving fees; or

6.6.4.5 Leasing a horse to a non-resident of Delaware.

6.6.5 The Commission or its designee shall determine all questions about a person's eligibility to participate in Delaware-owned races. In determining whether a person is a Delaware Resident, the term "resident" shall mean the place where an individual has his or her permanent home, at which that person remains when not called elsewhere for labor or other special or temporary purposes, and to which that person returns in seasons of repose. The term "residence" shall mean a place a person voluntarily fixed as a permanent habitation with an intent to remain in such place for the indefinite future.

6.6.6 The Commission or its designee may review and subpoena any information which is deemed relevant to determine a person's residence, including but not limited to, the following:

6.6.6.1 Where the person lives and has been living;

6.6.6.2 The location of the person's sources of income;

6.6.6.3 The address used by the person for payment of taxes, including federal, all state and property taxes and Delaware Resident tax filings;

6.6.6.4 The state in which the person's personal automobiles and all racing related vehicles are registered;

6.6.6.5 The state issuing the person's driver's license;

6.6.6.6 The state in which the person is registered to vote;

6.6.6.7 Ownership of property in Delaware or outside of Delaware;

6.6.6.8 The residence used for U.S.T.A. membership and U.S.T.A. registration of a horse, whichever is applicable;

- 6.6.6.9 The residence claimed by a person on a loan application or other similar financial documents;
- 6.6.6.10 Membership in civic, community, and other organizations in Delaware and elsewhere.
- 6.6.6.11 None of these factors when considered alone shall be dispositive, except that a person must have resided in the State of Delaware in the preceding calendar year for a minimum of one hundred and eighty three (183) days. Consideration of all of these factors together, as well as a person's expressed intention, shall be considered in arriving at a determination. The burden shall be on the applicant to prove Delaware residency and eligibility for Delaware-owned or bred races. The Commission may promulgate by regulation any other relevant requirements necessary to ensure that the licensee is a Delaware resident. In the event of disputes about a person's eligibility to enter a Delaware-owned or bred race, the Commission shall resolve all disputes and that decision shall be final.
- 6.6.6.12 Any and all utility, power, telephone (cellular and landline), cable or satellite bills for all properties regardless of state
  - 6.6.6.12.1 Any person who owns or leases property outside the State of Delaware shall be required to provide the Commission with a list of days the person resided inside and outside the State of Delaware during the preceding year.
  - 6.6.6.12.2 Any person approved for the Delaware owned program shall be required to notify the Commission of any changes that would impact their eligibility for the program.
  - 6.6.6.12.3 Any person claiming a Homestead exception in another state shall be deemed ineligible to participate in a Delaware owned program.
  - 6.6.6.12.4 Any person approved in any other State owned program shall be deemed ineligible for the Delaware Owned program.
- 6.6.7 Each owner and trainer, or the authorized agent of an owner or trainer, or the nominator (collectively, the "entrant"), is required to disclose the true and entire ownership of each horse with the Commission or its designee, and to disclose any changes in the owners of the registered horse to the Commission or its designee. All licensees and racing officials shall immediately report any questions concerning the ownership status of a horse to the Commission racing officials, and the Commission racing officials may place such a horse on the steward's or judge's list. A horse placed on the steward's or judge's list shall be ineligible to start in a race until questions concerning the ownership status of the horse are answered to the satisfaction of the Commission or the Commission's designee, and the horse is removed from the steward or judge's list.
- 6.6.8 If the Commission, or the Commission's designee, finds a lack of sufficient evidence of ownership status, residency, or other information required for eligibility, prior to a race, the Commission or the Commission's designee, may order the entrant's horse scratched from the race or ineligible to participate.
- 6.6.9 After a race, the Commission or the Commission's designee, may upon reasonable suspicion, withhold purse money pending an inquiry into ownership status, residency, or other information required to determine eligibility. If the purse money is ultimately forfeited because of a ruling by the Commission or the Commission's designee, the purse money shall be redistributed per order of the Commission or the Commission's designee.
- 6.6.10 If purse money has been paid prior to reasonable suspicion, the Commission or the Commission's designee may conduct an inquiry and make a determination as to eligibility. If the Commission or the Commission's designee determines there has been a violation of ownership status, residency, or other information required for eligibility, it shall order the purse money returned and redistributed per order of the Commission or the Commission's designee.
- 6.6.11 Anyone who willfully provides incorrect or untruthful information to the Commission or its designee pertaining to the ownership of a Delaware-owned or bred horse, or who attempts to enter a horse restricted to Delaware-owned entry who is determined not to be a Delaware resident, or who commits any other fraudulent act in connection with the entry or registration of a Delaware-owned or bred horse, in addition to other penalties imposed by law, shall be subject to mandatory revocation of licensing privileges in the State of Delaware for a period to be determined by the Commission in its discretion except that absent extraordinary circumstances, the Commission shall impose a minimum revocation period of two years and a minimum fine of \$5,000 from the date of the violation of these rules or the decision of the Commission, whichever occurs later.
- 6.6.12 Any person whose license is suspended or revoked under subsection (k) of this rule shall be required to apply for reinstatement of licensure and the burden shall be on the applicant to demonstrate that his or her licensure will not reflect adversely on the honesty and integrity of harness racing or interfere with the orderly conduct of a race meeting. Any person whose license is reinstated under this subsection shall be subject to a two year probationary period, and may not participate in any Delaware-owned or bred race

during this probationary period. Any further violations of this section by the licensee during the period of probationary licensure shall, absent extraordinary circumstances, result in the Commission imposing revocation of all licensure privileges for a five year period along with any other penalty the Commission deems reasonable and just.

6.6.13 Any suspension imposed by the Commission under this rule shall not be subject to the stay provisions in 29 Del.C. §10144.

- 1 DE Reg. 503 (1/1/97)
- 2 DE Reg. 1241 (1/1/99)
- 2 DE Reg. 1765 (4/1/99)
- 3 DE Reg. 432 (9/1/99)
- 3 DE Reg. 1520 (5/1/00)
- 4 DE Reg. 1123 (1/1/01)
- 4 DE Reg. 1652 (4/1/01)
- 5 DE Reg. 1691 (3/1/02)
- 6 DE Reg. 862 (1/1/03)
- 7 DE Reg. 1512 (5/1/04)
- 11 DE Reg. 308 (09/01/07)
- 11 DE Reg. 1050 (02/01/08)
- 12 DE Reg. 666 (11/01/08)
- 16 DE Reg. 282 (09/01/12)

## **7.0 Rules of the Race**

### **7.1 Declarations and Drawing**

#### **7.1.1 Declarations**

- 7.1.1.1 Declaration time shall be as specified in the Association's general conditions. The time when declarations close will be considered to be local time at the track where the race is being contested.
- 7.1.1.2 No horse shall be permitted to start in more than one race on any one racing day. Races decided by more than one heat are considered a single race.
- 7.1.1.3 The Association shall provide a locked box with an aperture through which declarations shall be deposited.
- 7.1.1.4 The Presiding Judge shall be in charge of the declaration box.
- 7.1.1.5 Just prior to opening of the box at extended pari-mutuel meetings where futurities, stakes, early closing or late closing events are on the program, the Presiding Judge shall check with the racing secretary to ascertain if any declarations are in the office and not deposited in the entry box, and shall see that they are declared and drawn in the proper event.

#### **7.1.2 Drawing**

- 7.1.2.1 The entry box shall be opened at the advertised time by the Presiding Judge. No owner or agent for a horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the Presiding Judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened to a definite time.
- 7.1.2.2 Subject to Commission approval, at non-extended meetings in the event of the absence or incapacity of the Presiding Judge, the functions enumerated above may be performed by one or more associate judges, or by a person designated by the Presiding Judge, for whose acts and conduct Presiding Judge shall be wholly responsible. If a substitution is made as herein provided, the name and address of the associate judge(s) or person so substituting shall be entered in the Judges' Book.  
  
At extended meetings in the event of the absence or incapacity of the Presiding Judge, the functions enumerated above may be performed by one or more associate judges who shall have been designated by the Presiding Judge, prior to the start of the meeting, in the form of a written notice to the Commission and to the Association conducting the meeting. A record shall be kept in the Judges' Book showing the name of the individual who performed such functions on each day of the meeting.
- 7.1.2.3 In races of a duration of more than one dash or heat at pari-mutuel meetings, the judges may draw post positions from the stand for succeeding dashes or heats.

- 7.1.2.4 Declarations by telephone or other means approved by the Association's race office that are actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Telephone declarations, or other means of declarations approved by the Association's race office must state the horse's name, the driver's name, the trainer's name, and the event in which the horse is to be entered.
- 7.1.2.5 Failure to declare as required shall be considered a withdrawal from the event.
- 7.1.2.6 After declaration to start has been made no horse shall be withdrawn except by permission of the judges. A fine, not to exceed \$2,000, or suspension may be imposed for withdrawing a horse without permission, the penalty to apply to both the horse and the party who violates the regulation.
- 7.1.2.7 Where the person making the declaration fails to honor it and there is no opportunity for a hearing by the judges, this penalty may be imposed by the commission representative.
- 7.1.2.8 Where a horse properly declared is omitted from the race by error of the Association, the omitted horse may take the post position of the incorrect horse included in the race. If two horses are incorrectly included in the event, one shall be drawn by lot and included in the race, provided, however, that the error is discovered prior to the publication of the official program.
- 7.1.2.9 In the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier, except as provided for in handicap claiming races. Whenever a horse is drawn from any tier, horses on the outside move in to fill up the vacancy. When there is only one trailer, it may start from any position in the second tier. When there is more than one trailer, they must start from inside any horse with a higher post position.
- 7.1.3 Qualifying Races
  - 7.1.3.1 Qualifying races and starting gate schooling shall be held according to the demand as determined by the Presiding Judge .
  - 7.1.3.2 Qualifying standards shall be set at each track by the racing secretary and the judges. These may vary at different times of the year to accommodate weather and the class of horse available. Standards for trotters will be two seconds slower than pacers.
  - 7.1.3.3 At all extended pari-mutuel meetings declarations for overnight events shall be governed by the following:
    - 7.1.3.3.1 Before racing at a chosen gait, a horse must go a qualifying race at that gait under the supervision of a licensed judge and acquire at least one charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths, a standard photo finish shall be in use.
    - 7.1.3.3.2 Any horse that fails to race within thirty (30) days of its last start must go a qualifying race as set forth in a) above. However, at any race meeting this period can be extended up to sixty (60) days upon receiving approval of the Commission. The time period allowed shall be calculated from the date of the last race to and including the date of declaration. Horses entered and in to go in a race or races which are canceled due to no fault of their own, shall be considered to have raced in that race, and no start shall be counted for date preference purposes.
    - 7.1.3.3.3 When a horse has raced at a charted meeting and then gone to meetings where the races are not charted the information from the uncharted lines may be summarized including each start and consolidated in favor of charted lines to include a charted line within the last thirty (30) days before the horse is permitted to race. The consolidated line shall carry date, place, time, driver, finish, track condition and distance.
    - 7.1.3.3.4 The judges may permit a horse to qualify by means of a timed workout consistent with the time of the races in which he will compete in the event adequate competition is not available for a qualifying race.
    - 7.1.3.3.5 When, for the purpose of qualifying the driver, a horse is declared in to race in a qualifying race, its performance shall be applicable to the horse's eligibility to race and the chart line shall be notated to indicate driver qualifying.
    - 7.1.3.3.6 If a horse takes a win race record in either a qualifying race or a matinee race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where, immediately prior to or following the race, the horse taking the record has been submitted to an approved urine, saliva or blood test. It will be the responsibility of the Presiding Judge to report the test on the Judges' Sheet.

- 7.1.3.4 Any horse regularly wearing hobbles shall not be permitted to be declared to race without them and any horse regularly racing without hobbles shall not be permitted to wear hobbles in a race without first having qualified with this equipment change. In addition to the foregoing, any horse regularly wearing hobbles and which is not on a qualifying list or Stewards' List, is allowed one start without hobbles in a qualifying race; and this single performance shall not affect its eligibility to race with hobbles in a subsequent event to which it is declared.
- 7.1.3.5 In their discretion the judges may require a horse to qualify for any reason; provided, however, that a horse making a break in each of two consecutive races may not be required to qualify if the breaks were solely equipment breaks and/or were caused solely by interference and/or track conditions.
- 7.1.3.6 A horse must qualify if:
  - 7.1.3.6.1 it does not finish for reasons other than interference or broken equipment.
- 7.1.3.7 A charted line containing only a break or breaks caused by interference or an equipment break shall be considered a satisfactory charted line.
- 7.1.3.8 The judges shall use the interference break mark only when they have reason to believe that the horse was interfered with by another horse or the equipment of another horse.

#### 7.1.4 Coupled Entries

When the starters in a race include two or more horses owned by the same person, or trained in the same stable or by the same management, they shall be coupled as an "entry", and a wager on one horse in the entry shall be a wager on all horses in the "entry"; provided, however, that in a stake, early closing, free-for-all or other special event, such horses may, at the request of the Association, made through the Presiding Judge be permitted to race as separate entries. Upon such request, the Presiding Judge shall have discretion to determine whether the horses are to race as separate entries. If the race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions insofar as possible, but the divisions in which they compete and their post positions shall be drawn by lots. The above provisions shall also apply to elimination heats. The person making the declaration of a horse that qualifies as a coupled entry with another horse entered in the same event shall be responsible to designate the word "entry" on the declaration blank. The Presiding Judge shall be responsible for coupling horses. In addition to the foregoing, horses separately owned or trained may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only; provided, however, that where this is done entries may not be rejected.

#### 7.1.5 Also Eligibles

Not more than two horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horses shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list cannot be drawn except by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the racing secretary's office. All horses on the also eligible list and not moved in to race by Scratch Time on the day of the race shall be released.

#### 7.1.6 Preference Dates

Preference dates shall be given to horses in all overnight events at extended pari-mutuel tracks in accordance with the following:

- 7.1.6.1 The date of the horse's last previous start in a purse race is its preference date with the following exceptions:
  - 7.1.6.1.1 The preference date on a horse that has drawn to race and has been scratched is the date of the race from which scratched.
  - 7.1.6.1.2 When a horse is racing for the first time ever, the date of its first successful qualifying race within DHRC standards shall be considered its preference date.
  - 7.1.6.1.3 Wherever horses have equal preference in a race, the actual preference of said horses in relation to one another shall be determined by backdating, up to two starts, the horse having raced closest to the draw having the least preference. If no preference is determined, preference will be determined by lot.



7.1.6.1.4 When an overnight race has been re-opened because it did not fill, all eligible horses declared into the race prior to the re-opening shall receive preference over other horses subsequently declared, irrespective of the actual preference dates, excluding horses already in to go.

7.1.6.2 This rule relative to preference is not applicable at any meeting at which an agricultural fair is in progress. All horses granted stalls and eligible must be given an opportunity to compete at these meetings.

## 7.2 Timing and Records

### 7.2.1 Timing

7.2.1.1 The time of each heat or dash shall be accurately taken by two timers or an approved electric timing device, in which case there shall be one timer, and placed in the record in minutes, seconds and fifths of seconds, and upon the decision of each heat the time thereof shall be publicly announced or admitted to the record. When the timers fail to act, no time shall be announced or recorded.

7.2.1.2 The time shall be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the wire.

7.2.1.3 The leading horse shall be timed and its time only shall be announced. No horse shall obtain a win race record by reason of the disqualification of another horse unless the horse's actual race time can be determined by photo finish or electronic timing.

7.2.1.4 In the case of a dead heat, the time shall constitute a record for the horses making the dead heat and both shall be considered winners.

### 7.2.2 Records

7.2.2.1 In order that performances thereon may be recognized or published as official, every Association shall have filed with the Commission the certificate of a duly licensed civil engineer or land surveyor that the track has been measured from wire to wire three feet out from the inside hub rail or other fixed marker and certifying exactly the result of such measurement. Each track shall be measured and re-certified in the event of any changes or relocation of the hub rail or other fixed marker.

7.2.2.2 A record will be the fastest time made by a horse in a heat or dash which it won, or in a performance against time.

7.2.2.3 No time record shall be recognized as a world record if obtained on a track without an inside rail or other fixed marker.

7.2.2.4 In any case of alleged error in the record, announcement or publication of the time made by a horse, the time so questioned shall not be changed to favor said horse or owner, except upon the sworn statement of the judges and timers who officiated in the race.

7.2.2.5 If a horse takes a win-race record in a qualifying race or schooling race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where the horse was subjected to the collection of a test sample. The Presiding Judge shall note on the judges' official race reports each qualifying race from which test samples were collected.

7.2.2.6 For horses bred in North America and subsequently exported, foreign earnings shall be converted to U.S. dollars and credited to the horse's official records. A winning performance at a mile or greater distance, expressed at a mile rate, shall receive recognition as the horse's record.

7.2.2.7 Any person found guilty of fraudulent misrepresentation of time or the alteration of the record thereof, in any race, shall be fined, suspended, expelled or a combination thereof and time declared not a record.

## 7.3 Postponement and Cancellation

7.3.1 In case of unfavorable weather or other unavoidable cause, the Association upon notifying the Commission shall postpone or cancel races in accordance with the following rules.

7.3.2 Added money events shall be postponed to a definite hour on a scheduled race date when favorable conditions prevail.

7.3.3 An early closing event or a late closing event that cannot be raced during the scheduled meeting shall be declared off and the total of nomination, sustaining and starting payments divided equally among the owners of eligibles in proportion to the number of horses declared to start.

7.3.4 An early closing event or late closing event that has been started, but remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary.

7.3.5 Stakes and futurities should be raced where advertised and the meeting may be extended to accomplish this. Any stake or futurity that has been started, but which remains unfinished on the last day of the

scheduled meeting shall be declared ended and the full purse divided according to the summary, except where the Association elects to extend the meeting to complete the race. Horses that are scratched after a heat and before the race is declared finished shall not participate in purse distributions for subsequent heats in the event the race is called off and declared finished.

- 7.3.6 Unless otherwise provided in the conditions, in order to transfer stakes and futurities to another meeting, unanimous consent must be obtained from the Association and all those having eligibles in the event.
- 7.3.7 At extended meetings, overnight events may be postponed and rescheduled within two days, or may be canceled if circumstances or weather conditions warrant. Postponed overnight events not raced within two days shall then be canceled.
- 7.3.8 At non-extended meetings, overnight events shall be canceled, unless the Association is willing to add the postponed races to the advertised program for subsequent days of the meeting. At the option of the Association, any postponed races may be contested in single one-mile dashes. Where races are postponed under this rule, the Association shall have the privilege of selecting the order in which events will be raced in any combination program.
- 7.3.9 If the track conditions are questionable for the warming up or racing of horses, the Presiding Judges shall call a meeting consisting of a committee including himself/herself, an Agent of the track and a Representative of the Horsemen. The Agent of the track will notify the Track Superintendent to attempt to correct any problem with the racing surface as soon as possible. Once the Track Superintendent has addressed the problem, the Horsemen's Representative will physically review the areas in question. If all are in agreement that the problem has been corrected, racing will proceed. If the Representative of the Horsemen is not satisfied, the Track Superintendent will be given a final opportunity to rectify the problem. If after the second attempt to rectify the problem, the Horsemen's Representative is still not satisfied, there will be a vote of the Drivers and Trainers of horses participating in that night's program to determine if racing will be conducted. A secret vote will be taken of those participants and will be conducted and monitored by the Judges. The Judges will count the ballots and inform Track Management of the outcome. If a tally of the drivers and trainers determines that 25 percent or less vote to race, the card shall be canceled. If more than 25 percent and less than 75 percent vote to race, trainers will be allowed to withdraw horses without penalty. If 75 percent or more vote to race, the regular rules of withdrawal and scratching of horses will apply. The foregoing does not preclude race track management from canceling racing due to track or weather conditions without consultation with the Presiding Judges and the Horsemen's Representative upon notification of the Commission or its designee.
- 7.3.10 If qualifying races are postponed or canceled, an announcement shall be made to the participants as soon as the decision is made.
- 7.3.11 Where a race is postponed pursuant to any of the foregoing provisions only those horses originally declared in to the postponed event shall to be eligible to race. Where a race is postponed and moved to another location, horses previously declared may withdraw without penalty.
- 7.3.12 In the event the Judges declare a "No Contest", the designated purse for that contest shall be divided equally among those horses that were eligible to participate in that contest. The declaration date for those horses credited with earnings in this manner shall be the scheduled date of the "No Contest" race.

#### 7.4 Horses Permitted to Race

- 7.4.1 A horse shall be eligible to be declared in to race provided the following conditions have been met:
  - 7.4.1.1 the eligibility fee, which shall become due and payable when a horse makes its first start in any type of race in a calendar year, has been paid to the United States Trotting Association, or a current eligibility certificate has been granted for the horse by the United States Trotting Association or by the Canadian Trotting Association.
  - 7.4.1.2 the horse has been registered in the current ownership with the Canadian Standardbred Horse Society or in the United States Trotting Association Register;
  - 7.4.1.3 if leased, a copy of the lease is on file with, and is acceptable to the United States Trotting Association or Canadian Trotting Association, as appropriate. The horse must race in the name of the lessee;
  - 7.4.1.4 for overnight races, the horse has qualified at an extended meeting in accordance with the rules prior to the time of closing of declarations in accordance with the qualifying standards of the track presenting the race.
  - 7.4.1.5 for added money events, the horse has qualified at an extended meeting in accordance with the rules prior to the time of closing of declarations.
  - 7.4.1.6 not more than 30 days prior to the time of closing of declarations, the horse was credited with a satisfactory charted past performance line obtained in a purse, qualifying or schooling race

conducted at a chartered meeting; provided, however, that with the permission of the Presiding Judge, a satisfactory chartered past performance within 60 days prior to the time of closing of declarations may be used;

- 7.4.1.7 the horse is at least two years of age to race at any meeting but not older than 14 years of age;
- 7.4.1.8 the horse has not been denerved by any method above its pastern. The decision at any given time whether the horse has been denerved shall be the State veterinarian's.
- 7.4.1.9 if a mare has been spayed, the United States Trotting Association or Canadian Trotting Association, as appropriate, has been notified in writing by the owner, trainer or veterinarian;
- 7.4.1.10 the horse does not have a trachea tube or a hole in its throat for a trachea tube;
- 7.4.1.11 the horse has unimpaired vision in at least one eye; and
- 7.4.1.12 the horse has been lip tattooed or freeze-branded in accordance with the constitution and bylaws and regulations of the United States Trotting Association or Canadian Standardbred Horse Society.

7.4.2 Any participant who declares, or causes to be declared, an ineligible horse to start shall be guilty of a violation of the rules and subject to disciplinary action by the judges. If after declarations close, and prior to the race, the judges become aware that an ineligible horse has been declared, they shall immediately scratch the horse and starting fees, if applicable, shall be forfeited.

7.4.3 If the ownership of a horse changes, such horse may start under the new ownership not more than one time without reasonable evidence being given to the judges that the registration certificate has been forwarded to the United States Trotting Association.

7.4.4 Any participant skipping or omitting transfers of ownership of any horse shall be guilty of a violation.

7.4.5 For the purposes of these rules, the term eligibility certificate shall refer to a printed document or its electronically produced equivalent.

7.4.6 Horses not under lease must race in the name of the bona fide owner.

## 7.5 Equipment

7.5.1 Any owner or trainer who wishes to change any equipment or hobbles on a horse from one race to another shall apply to the judges for permission to do so, and no change shall be made without such permission. The judges shall assure themselves of the necessity for any change of equipment or hobbles before granting permission.

7.5.2 No horse will be permitted in a race to wear any type of equipment that covers, protrudes, or extends beyond its nose or that in any way could interfere with the true placing of the horse.

7.5.3 It shall be the responsibility of the owner and trainer to provide every sulky used in a race with unicolored or colorless wheel discs on the inside and outside of each wheel of a type approved by the Commission. In his discretion, the Presiding Judge may order the use of mud guards.

## 7.6 Racing Rules

### 7.6.1 Under Supervision of Starter

7.6.1.1 Horses shall be under supervision of the starter from the time they arrive on the track until the start of the race.

7.6.1.2 All horses shall parade from the paddock to the starting post, and no driver shall dismount without the permission of the starter. Attendants may not care for the horses during the parade except by permission of the starter.

7.6.1.3 After entering the track not more than ten (10) minutes shall be consumed in the parade of the horses to the post except in cases of unavoidable delay.

7.6.1.4 Horses awaiting post time may not be held on the backstretch in excess of five (5) minutes, except when delayed by an emergency.

### 7.6.2 Pre-Race Accidents

When, before a race starts:

7.6.2.1 A horse is a runaway or is otherwise involved in an accident, such horse shall be examined by the racing veterinarian and if the horse is not ordered scratched by the veterinarian, the judges may permit the horse to compete and have this decision announced.

7.6.2.2 A driver is unseated and appears to have been injured, the horse that was being driven by that driver may compete with a substitute driver.

7.6.2.3 If a horse is scratched in error and cannot be added back into the pari-mutuel system, the horse may race for purse only. The judges shall ensure that the race announcer informs the public that the horse will be racing without pari-mutuel wagering.

### 7.6.3 Fair Start

The starter shall give such orders and take such measures that do not conflict with the rules of racing, as are necessary to secure a fair start.

### 7.6.4 Starter's Duties

7.6.4.1 The starter shall be in the starting gate ten (10) minutes before the post time of the race.

7.6.4.2 The starter shall have control over the horses and authority to assess fines and/or suspend drivers for any violation of the rules from the formation of the parade until the word "go" is given.

7.6.4.3 The starter may assist in placing the horses when requested by the judges to do so.

7.6.4.4 The starter shall notify the judges and the drivers in writing of penalties imposed by him.

### 7.6.5 Starting

7.6.5.1 The starter shall have control of the formation of the parade until giving the word "go".

7.6.5.2 After warming up scores, the starter shall notify the drivers to come to the starting gate.

7.6.5.3 The horses shall be brought to the starting gate as near one-quarter of a mile before the start as the track will permit.

7.6.5.4 Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained:

7.6.5.4.1 For the first one-eighth of a mile, not less than 11 miles per hour.

7.6.5.4.2 For the next one-sixteenth of a mile, not less than 18 miles per hour.

7.6.5.4.3 From that point to the starting point, the speed will be gradually increased to maximum speed.

7.6.5.5 The starting point will be a point marked at a designated spot not less than 200 feet from the first turn. The starter shall give the word "go" at the starting point.

7.6.5.6 When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

### 7.6.6 Recall Rules

7.6.6.1 In case of a recall, a light plainly visible to the drivers shall be flashed and a recall sounded, but the starting gate shall proceed out of the path of the horses. In the case of a recall, whenever possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. In an emergency, however, the starter shall use his discretion to close the wings of the gate.

7.6.6.2 There shall be no recall after the word "go" has been give unless there is a mechanical failure of the starting gate.

7.6.6.3 The starter shall attempt to dispatch all horses away in position and on gait but there shall be no recall for a breaking horse.

7.6.6.4 In the event a horse causes two recalls, it may be scratched by the judges.

7.6.6.5 The starter may sound a recall for the following reasons:

7.6.6.5.1 A horse scores ahead of the gate;

7.6.6.5.2 There is interference;

7.6.6.5.3 A horse has broken equipment;

7.6.6.5.4 A horse falls before the word "go" is given; or

7.6.6.5.5 A mechanical failure of the starting gate;

7.6.6.5.6 A horse comes to the gate out of position.

7.6.6.6 A fine and/or suspension may be applied to any driver for:

7.6.6.6.1 Delaying the start;

7.6.6.6.2 Failure to obey the starter's instructions;

7.6.6.6.3 Rushing ahead of the inside or outside wing of the gate;

7.6.6.6.4 Coming to the starting gate out of position;

7.6.6.6.5 Crossing over before reaching the starting point;

7.6.6.6.6 Interference with another driver during the start; or

7.6.6.6.7 Failure to come up into position and stay in position behind the starting gate until the word "go" is given.

### 7.6.7 Starting Gate

7.6.7.1 No persons shall be allowed to ride in the starting gate except the starter and the driver or operator and a patrol judge, unless permission has been granted by the Presiding Judge.

- 7.6.7.2 Use of the mechanical loudspeaker for any purpose other than to give instructions to the drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the starter to the drivers.
- 7.6.7.3 The arms of all starting gates shall be provided with a screen or shield in front of the position for each horse.
- 7.6.7.4 The official starter must ensure that the starting gate is in good working order prior to the beginning of each race program.
- 7.6.7.5 The official starter and starting gate driver shall operate the starting gate in a manner consistent with the safe conduct of the race, the safety of the race participants and the safety of the patrons.
- 7.6.8 Two-Tiered Races
  - 7.6.8.1 In the event there are two tiers of horses, the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the positions of horses that have drawn or entered positions in the second tier.
  - 7.6.8.2 Whenever a horse is drawn from any tier, horses on the outside move in to fill the vacancy. Where a horse has drawn a post position in the second tier, the driver of such horse may elect to score out behind any horse in the front tier so long as it does not interfere with another trailing horse or deprive another trailing horse of a drawn position.
  - 7.6.8.3 When there is only one trailer, it may start from any position in the second tier. When there is more than one trailer, they must start from inside any horse with a higher post position.
- 7.6.9 Starting Without a Gate
  - 7.6.9.1 When horses are started without a gate the starter shall have control of the horses from the formation of the parade until giving the word "go". The starter shall be located at the wire or other point of start of the race at which point as nearly as possible the word "go" shall be given. No driver shall cause unnecessary delay after the horses are called. After two preliminary warming-up scores, the starter shall notify the drivers to form in parade.
  - 7.6.9.2 The driver of any horse refusing or failing to follow the instructions of the starter as to the parade or scoring ahead of the pole horse may be set down for the heat in which the offense occurs, or for such other period as the starter shall determine, and may be fined. Whenever a driver is taken down, the substitute shall be permitted to score the horse once. A horse delaying the race may be started regardless of its position or gait and there shall not be a recall because of a bad acting horse. If the word "go" is not given, all the horses in the race shall immediately turn on signal, and jog back to their parade positions for a fresh start. There shall be no recall after the starting word is given.
- 7.6.10 Horse Deemed a Starter

Horses shall be deemed to have started when the word "go" is given by the starter and all horses must go the course except in the case of an accident in which it is the opinion of the judges that it is impossible to go the course.
- 7.6.11 Unmanageable/Bad Acting Horses
  - 7.6.11.1 If, in the opinion(s) of the judges and/or the starter, a horse is unmanageable or liable to cause accidents or injury to any other horse or to any driver, it may be sent to the barn. When this action is taken, the starter will notify the judges who will in turn notify the public and order any refunds as may be required in Rule 10 of these rules.
  - 7.6.11.2 The starter may place a bad acting horse on the outside at his discretion. Such action may be taken only where there is time for the starter to notify the judges who will in turn notify the public prior to any pari-mutuel wagering on the race. If pari-mutuel wagering has already begun on the race, the horse must be scratched as stipulated in subdivision 1 above.
- 7.6.12 Post Positions, Heat Racing
  - 7.6.12.1 The horse winning a heat shall take the inside position in the succeeding heat, unless otherwise specified in the published conditions of the race, and all others shall take their positions in the order they were placed in the prior heat.
  - 7.6.12.2 When two or more horses dead heat, their positions shall be determined by lot.
- 7.6.13 Conduct of the Race
  - 7.6.13.1 A driver shall not commit any of the following acts which are considered violations of driving rules:
    - 7.6.13.1.1 Change course or position, or swerve in or out, or bear in or out during any part of the race in such a manner as to compel a horse to shorten its stride or cause another driver to change course, take his horse back, or pull his horse out of its stride.

- 7.6.13.1.2 Impede the progress of another horse or cause it to break from its gait.
- 7.6.13.1.3 Cross over too sharply in front of another horse or in front of the field.
- 7.6.13.1.4 Crowd another horse by 'putting a wheel under it.'
- 7.6.13.1.5 Allow another horse to pass needlessly on the inside, or commit any other act that helps another horse to improve its position.
- 7.6.13.1.6 Carry another horse out.
- 7.6.13.1.7 Take up or slow up in front of other horses so as to cause confusion or interference among the trailing horses.
- 7.6.13.1.8 Maintain an outside position without making the necessary effort to improve his overall position.
- 7.6.13.1.9 Strike or hook wheels with another sulky.
- 7.6.13.1.10 Lay off a normal pace and leave a hole when it is well within the horse's capacity to keep the hole closed.
- 7.6.13.1.11 Drive in a careless or reckless manner.
- 7.6.13.1.12 Fail to set, maintain or properly contest a pace comparable to the class in which he is racing considering the horse's ability, track conditions, weather and circumstances confronted in the race.
- 7.6.13.1.13 Riding 'half-in' or 'half-out'.
- 7.6.13.1.14 Kicking a horse.
- 7.6.13.1.15 Excessive and/or unnecessary conversation between and among drivers while on the racetrack during the time when colors are required is prohibited. Any violation of this rule may be punished by a fine, suspension or combination thereof.
- 7.6.13.2 A complaint by a driver of any foul, violation of the rules or other misconduct during a race shall be made immediately after the race to which it relates, unless the driver is prevented from doing so by an accident or injury or other reasonable excuse. A driver desiring to enter a claim of foul, or other complaint of violation of the rules, shall make this known to the starter before dismounting and shall proceed immediately to the paddock telephone to communicate immediately with the judges. Any driver who is involved in an objection or inquiry shall proceed immediately to the paddock telephone to communicate with the judges. The judges shall not cause the official sign to be posted until the matter has been dealt with.
- 7.6.13.3 If a violation is committed by a person driving a horse coupled as an entry the judges may set both horses back if, in their opinion, the violation may have affected the finish of the race, otherwise penalties may be applied individually.
- 7.6.13.4 In the case of interference, collision, or violation of any rules, the offending horse may be placed back one or more positions in that heat or dash, and in the event of such collisions, interference or violation preventing any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver may be fined or suspended. If a horse is set back, it must be placed behind the horse with which it interfered. If an offending horse has interfered with a horse involved in a dead heat and the offending horse is set back, it must be placed behind the horses in the dead heat.
- 7.6.13.5 If the judges believe that a horse is, or has been driven with design to prevent it winning a race or races, they shall consider it a violation by the driver.
- 7.6.13.6 If the judges believe that a horse has been driven in an inconsistent manner, they shall consider it a violation.
- 7.6.13.7 If the judges believe that a horse has been driven in an unsatisfactory manner due to lack of effort or a horse has been driven in an unsatisfactory manner for any reason, they shall consider it a violation punishable by a fine and/or suspension.
- 7.6.13.8 If a horse is suspected to have choked or bled during a race, the driver and/or trainer of that horse is required to report this to the judges immediately after the race.
- 7.6.13.9 If, in the opinion of the judges, a driver is for any reason unfit or incompetent to drive, or is reckless in his conduct and endangers the safety of horses or other drivers in a race, he shall be removed and another driver substituted at any time and the offending driver may be fined, suspended or expelled.
- 7.6.13.10 If for any cause other than being interfered with, or broken equipment, a horse fails to finish after starting a race, that horse shall be ruled out of any subsequent heat of the same event. If it is alleged that a horse failed to finish a race because of broken equipment, this fact must be reported

to the paddock judge who shall make an examination to verify the allegation and report the findings to the judges.

- 7.6.13.11 A driver must be mounted in the sulky at all times during the race or the horse shall be placed as a non-finisher.
- 7.6.13.12 Shouting or other improper conduct in a race is forbidden.
- 7.6.13.13 Drivers shall keep both feet in the stirrups during the post parade and from the time the horses are brought to the starting gate until the race has been completed. Drivers shall be permitted to remove a foot from the stirrups during the course of the race solely for the purpose of pulling ear plugs and once same have been pulled the foot must be placed back into the stirrup. Drivers who violate this rule may be subject to a fine and/or suspension.
- 7.6.13.14 Impelling of a Horse
  - 7.6.13.14.1 Whips: Drivers will be allowed whips not to exceed 4 feet, plus a snapper not longer than 6 inches. Modification of a whip is prohibited.
    - 7.6.13.14.1.1 Use: The use of a whip shall be confined to the areas above and between the sulky shafts and the outside wheel disks.
    - 7.6.13.14.1.2 Drivers shall keep a line in each hand from the start of the race until the quarter pole.
    - 7.6.13.14.1.3 From the quarter pole to the 7/8th pole, a driver may only use the whip once for a maximum of three strokes. Once the lead horse is at the 7/8th pole, these restrictions do not apply.
  - 7.6.13.14.2 Violations:
    - 7.6.13.14.2.1 Whipping under the arch or shafts of the sulky
    - 7.6.13.14.2.2 Whipping a horse after the race
    - 7.6.13.14.2.3 Causing injury (visible or not) with a whip
    - 7.6.13.14.2.4 Striking or jabbing a horse with the butt end of a whip
    - 7.6.13.14.2.5 Whipping a horse that is out of contention
    - 7.6.13.14.2.6 Brutal, excessive, and or indiscriminate use of a whip.
      - 7.6.13.14.2.6.1 Inspections: At extended pari-mutuel meetings, under the supervision of the judges, there may be a mandatory inspection of each horse following each race for evidence of excessive or brutal use of the whip. At all other meetings, the judges shall have the authority to order and/or conduct such inspections at their discretion.
- 7.6.13.15 The use of any goading device, or chain, or spur, or mechanical or electrical device other than a whip as allowed in the rules, upon any horse, shall constitute a violation.
- 7.6.13.16 The possession of any mechanical or electrical goading device on the grounds of an Association shall constitute a violation.
- 7.6.13.17 The judges shall have the authority to disallow the use of any equipment or harness that they feel is unsafe or not in the best interests of racing.
- 7.6.13.18 When a horse breaks from its gait, it shall be considered a violation on the part of the driver for:
  - 7.6.13.18.1 Failure to take the horse to the outside of other horses where clearance exists.
  - 7.6.13.18.2 Failure to properly attempt to pull the horse to its gait.
  - 7.6.13.18.3 Failure to lose ground while on a break.
  - 7.6.13.18.4 If no violation has been committed, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish. The judges may set any horse back one or more places if in their judgment, any of the above violations have been committed, and the driver may be penalized.
  - 7.6.13.18.5 Any horse making a break which causes interference to other horses may be placed behind all offended horses. If there has been no failure on the part of the driver of the breaking horse in complying with Rule 7.6.13.20, no fine or suspension shall be imposed on the driver as a consequence.
- 7.6.13.19 If, in the opinion of the judges, a driver allows a horse to break for the purpose of losing a race, he or she shall be in violation of the rules.
- 7.6.13.20 It shall be the duty of one of the judges to call out every break made and have them duly recorded in judges official race reports.
- 7.6.13.21 The horse whose nose reaches the wire first is the winner. If there is a dead heat for first, both horses shall be considered winners. In races having more than one heat or dash, where two horses are tied in the summary, the winner of the longer dash or heat shall be entitled to the

trophy. Where the dashes or heats are of the same distance and the horses are tied in the summary, the winner of the faster dash or heat shall be entitled to the trophy. Where the dashes or heats are of the same time, both horses shall be considered winners and the entitlement of the trophy will be decided by lot.

7.6.13.22 The wire or finish line is a real line established with the aid of a surveyor's transit, or an imaginary line running from the center of the judges' stand to a point immediately across and at right angles to the track.

7.6.13.23 If, during the preliminary scores or during a race a driver is unseated in such a manner that he or she falls to the ground, the Presiding Judge or judges may direct the driver to report to the infirmary or to the emergency department of the nearest hospital for examination and receive clearance to continue with driving assignments on that day of racing.

7.6.13.24 If a horse is to warm up it must go its last warm-up on the same racing strip as it will compete on unless excused by the judges.

#### 7.6.14 Harness Race Track Without a Hubrail

7.6.14.1 If at a racetrack which does not have a continuous solid inside hub rail, a horse or part of the horse's sulky leaves the course by running over or going inside the pylons or other demarcation which constitutes the inside limits of the course, the offending horse may be placed one or more positions where, in the opinion of the judges, the action gave the horse an unfair advantage over other horses in the race, or the action helped the horse improve its position in the race. Drivers may be fined or suspended for permitting a horse's sulky to run over or go inside the pylons or other demarcation which constitutes the inside limits of the course. In addition, when an act of interference causes a horse or part of the horse's sulky to cross the inside limits of the course, and the horse is placed by the judges, the offending horse shall be placed behind the horse with which it interfered.

7.6.14.2 In the event a horse or part of a horse's sulky leaves the course for any reason, it shall be the driver's responsibility to take all reasonable steps to safely reenter the race course as soon as possible.

#### 7.6.15 Extended Homestretch

7.6.15.1 With approval of the Commission, a track may extend the width of its homestretch up to 10 feet inward in relation to the width of the rest of the racetrack.

7.6.15.2 In the event the home stretch is expanded pursuant to 7.6.15.1 above, the following shall apply:

7.6.15.2.1 When entering or while going through the homestretch for the first time in a race, no horse shall use the expanded inside lane in an attempt to pass other horses or improve its position. Any horse, which does so shall be disqualified and placed last in the order of finish.

7.6.15.2.2 the lead horse in the homestretch shall maintain as straight a course as possible while allowing trailing horses full access to the extended inside lane.

If, in the opinion of the judges, the lead horse changes course in the homestretch in an attempt to prevent a trailing horse from passing, said horse shall be placed accordingly.

7.6.15.2.3 Horses using the expanded inside lane during the homestretch drive for the finish of the race, must first have complete clearance of the pylons marking the inside boundary of the racecourse. Any horse or sulky running over one or more of the pylons or going inside the pylons while attempting to use the expanded inside lane, may be disqualified or placed back one or more positions.

7.6.15.2.4 A horse may only be driven into the expanded homestretch lane for the purpose of passing another horse and may not be driven into the expanded homestretch lane for the purpose of blocking a trailing horse. If, in the opinion of the judges, a horse is driven into the expanded homestretch lane for the purpose of blocking a trailing horse, the driver of the blocking horse may be fined and/or suspended and the horse may be placed accordingly.

**1 DE Reg. 923 (1/1/98)**

**2 DE Reg. 684 (10/01/98)**

**2 DE Reg. 1764 (4/1/99)**

**3 DE Reg. 432 (9/1/99)**

**3 DE Reg 1520 (5/1/00)**

**4 DE Reg 336 (8/1/00)**

**5 DE Reg. 832 (10/1/01)**

**7 DE Reg. 42 (7/1/03)**

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



12 DE Reg. 1074 (02/01/09)  
13 DE Reg. 841 (12/01/09)  
14 DE Reg. 553 (12/01/10)  
15 DE Reg. 1322 (03/01/12)

## **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 Chief DHRC 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 Chief DHRC Veterinarian and the State Steward. Without limiting the authority of the Presiding Judge to enforce these Rules, the Chief DHRC 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, 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 the official veterinarian;

8.2.2.2.2 a non-injectable substance on the direction or by prescription of a licensed veterinarian; 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:

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 Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International and 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 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 Chief DHRC Veterinarian and the racing secretary.

##### 8.3.1.1 Class 1

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

- 8.3.1.4.1 Non-opiate drugs which have a mild central analgesic effect;
- 8.3.1.4.2 Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects
  - 8.3.1.4.2.1 Drugs used solely as topical vasoconstrictors or decongestants
  - 8.3.1.4.2.2 Drugs used as gastrointestinal antispasmodics
  - 8.3.1.4.2.3 Drugs used to void the urinary bladder
  - 8.3.1.4.2.4 Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.
- 8.3.1.4.3 Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);
- 8.3.1.4.4 Mineralocorticoid drugs;
- 8.3.1.4.5 Skeletal muscle relaxants;
- 8.3.1.4.6 Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include:
  - 8.3.1.4.6.1 Non-Steroidal Anti-Inflammatory Drugs (NSAIDs)--aspirin-like drugs;
  - 8.3.1.4.6.2 Corticosteroids (glucocorticoids); and
  - 8.3.1.4.6.3 Miscellaneous anti-inflammatory agents.
- 8.3.1.4.7 Anabolic and/or androgenic steroids and other drugs;
- 8.3.1.4.8 Less potent diuretics;
- 8.3.1.4.9 Cardiac glycosides and antiarrhythmics including:
  - 8.3.1.4.9.1 Cardiac glycosides;
  - 8.3.1.4.9.2 Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and
  - 8.3.1.4.9.3 Miscellaneous cardiotoxic drugs.
- 8.3.1.4.10 Topical Anesthetics--agents not available in injectable formulations;
- 8.3.1.4.11 Antidiarrheal agents; and
- 8.3.1.4.12 Miscellaneous drugs including:
  - 8.3.1.4.12.1 Expectorants with little or no other pharmacologic action;
  - 8.3.1.4.12.2 Stomachics; and
  - 8.3.1.4.12.3 Mucolytic agents.

#### 8.3.1.5 Class 5

Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents which have very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

### 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.
- 8.3.2.6 In determining the appropriate penalty with respect to a medication rule violation, the Presiding Judge or other designee of the Commission may use his discretion in the application of the foregoing penalty recommendations, and shall consult with the Chief DHRC Veterinarian 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 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

- 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 licensed veterinarian, 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 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 licensed veterinarians, 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 labelled 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 duly licensed veterinarian, 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 Aminiocaproic Acid (Amicar)
  - 8.3.5.1 General
 

Furosemide (Salix) and Aminiocaproic 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 Aminiocaproic 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 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 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.
  - 8.3.5.3 Dosage
 

Aminocaproic Acid shall be administered to a horse on the Bleeder List only by the licensed Bleeder Medication Veterinarian, 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 licensed practicing veterinarian shall possess equipment or any substance for injectable administration on the race track complex, 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

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 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

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 practicing veterinarian, at the owner's or trainer's expense, and in the presence of the Commission Veterinarian. 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 an official 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 (EIPH) 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 - 10 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 EIPH 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 EIPH 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.
- 8.3.5.9.5 An owner or trainer must notify the Commission Veterinarian immediately of evidence that a horse is bleeding following exercise or racing.
- 8.3.5.9.6 A horse may be removed from the Bleeder List at the request of the owner or trainer, if the horse completes a 10-day rest period following such request, and then re-qualifies. A horse may discontinue the use of Aminocaproic Acid without a ten (10) day rest period or having to reliquary provided the horse was on Aminocaproic Acid for thirty (34) days or more. In addition, once a horse discontinues the use of Aminocaproic Acid, it is prohibited from using said medication for ninety (90) days from the date of its last administration for Aminocaproic Acid.
- 8.3.5.9.7 Any horse on the Bleeder List which races in a jurisdiction where it is not eligible for bleeder medication, whether such ineligibility is due to the fact that it does not qualify for bleeder medication in that jurisdiction or because bleeder medication is prohibited in that jurisdiction, shall automatically remain on the Bleeder List at the discretion of the owner or trainer, provided that such decision by the owner or trainer must be declared at the time of the first subsequent entry in Delaware, and the Furosemide and Aminocaproic Acid symbols in the program shall appropriately reflect that the horse did not receive Furosemide or Furosemide with Aminocaproic Acid its last time out. Such an election by the owner or trainer shall not preclude the Chief DHRC Veterinarian, or Presiding Judge from requiring re-qualification whenever a horse on the Bleeder List races in another jurisdiction without bleeder medication, and the integrity of the Bleeder List may be questioned.
- 8.3.5.9.8 Any horse on the Bleeder List which races without Furosemide or Furosemide with Aminocaproic Acid in any jurisdiction which permits the use of Furosemide or Furosemide with Aminocaproic Acid in any jurisdiction which permits the use of Lasix shall automatically be removed from the Bleeder List. In order to be restored to the Bleeder List, the horse must demonstrate EIPH in accordance with the criteria set forth in subdivision 8.3.5.9.1 above. If the horse does demonstrate EIPH and is restored to the Bleeder List, the horse shall be suspended from racing in accordance with the provisions of 8.3.5.9.4 above.
- 8.3.5.9.9 The Presiding Judge, in consultation with the Commission Veterinarian, will rule on any questions relating to the Bleeder List.
- 8.3.5.10 Medication Program Entries
  - It is the responsibility of the trainer at the time of entry of a horse to provide the racing secretary with the bleeder medication status of the horse on the entry blank, and also to provide the Commission Veterinarian with a bleeder certificate, if the horse previously raced out-of-state on bleeder medication.
- 8.3.6 Phenylbutazone (Bute)
  - 8.3.6.1 General
    - 8.3.6.1.1 Phenylbutazone or oxyphenbutazone may be administered to horses in such dosage amount that the official test sample shall contain not more than 2.5 micrograms per milliliter of blood plasma.
    - 8.3.6.1.2 If post-race quantification indicates that a horse carried in its body at the time of the running of the race more than 2.0 but not 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 meclofenamic 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 Section 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 Section 8.3.7.3.
    - 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 Section 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 State 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 Chief DHRC 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.

#### 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. 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 licensed veterinarian 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.
  - 8.4.3.5.2 The Commission Veterinarian shall:
    - 8.4.3.5.2.1 Identify the horse from which the specimen was taken.
    - 8.4.3.5.2.2 Document the race and day, verified by the witness; and
    - 8.4.3.5.2.3 Place the detached portions of the identification tags in a sealed envelope for delivery only to the stewards.
  - 8.4.3.5.3 After both portions of samples have been identified in accordance with this section, the "primary" sample shall be delivered to the official chemist designated by the Commission.

- 8.4.3.5.4 The "secondary" sample shall remain in the custody of the Commission Veterinarian at the detention area and urine samples shall be frozen and blood samples refrigerated in a locked refrigerator/freezer.
- 8.4.3.5.5 The Commission Veterinarian shall take every precaution to ensure that neither the Commission chemist nor any member of the laboratory staff shall know the identity of the horse from which a specimen was taken prior to the completion of all testing.
- 8.4.3.5.6 When the Commission chemist has reported that the "primary" sample delivered contains no prohibited drug, the "secondary" sample shall be properly disposed.
- 8.4.3.5.7 If one hundred (100) milliliters (ml.) or less of urine is obtained, it will not be split, but will be considered the "primary" sample and will be tested as other "primary" samples.
- 8.4.3.5.8 Two (2) blood samples shall be collected in sample receptacles approved by the Commission, one for the "primary" and one for the "secondary" sample.
- 8.4.3.5.9 In the event of an initial finding of a prohibited substance or in violation of these Rules and Regulations, the Commission chemist shall notify the Commission, both orally and in writing, and an oral or written notice shall be issued by the Commission to the owner and trainer or other responsible person no more than twenty-four (24) hours after the receipt of the initial finding, unless extenuating circumstances require a longer period, in which case the Commission shall provide notice as soon as possible in order to allow for testing of the "secondary" sample; provided, however, that with respect to a finding of a prohibited level of total carbon dioxide in a blood sample, there shall be no right to testing of the "secondary sample" unless such finding initially is made at the racetrack on the same day that the tested horse raced, and in every such circumstance a "secondary sample" shall be transported to the Commission laboratory on an anonymous basis for confirmatory testing.
  - 8.4.3.5.9.1 If testing of the "secondary" sample is desired, the owner, trainer, or other responsible person shall so notify the Commission in writing within 48 hours after notification of the initial positive test or within a reasonable period of time established by the Commission after 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.
  - 8.4.3.5.10.1A 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.

- 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 stable 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 Association grounds;
- 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 association grounds;
  - 8.5.5.5 immediately reporting the alteration of the sex of a horse to the clerk of the course, the United States Trotting Association and the Racing Secretary;
  - 8.5.5.6 promptly reporting to the Racing Secretary 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 the Board of Judges, the Chief DHRC Veterinarian, 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 Chief DHRC Veterinarian 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;
  - 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 Presiding Judge other Commission designee, or to the State Veterinarian or Chief DHRC Veterinarian if the Presiding Judge or other Commission designee is unavailable, the death of any horse drawn in to start in a race in this jurisdiction provided that the death occurred within 60 days of the date of the draw.

## 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.

## 8.6.2 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 destroyed. 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 on Association grounds or 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 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. Upon completion of the postmortem examination, the carcass may be returned to the owner or disposed of at the owner's option.
- 8.6.2.4 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.
- 8.6.2.5 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 perfluorocarbon 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.
- 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:

- 8.8.1.3.1 The collection of sufficient blood and urine samples, including the costs of the State veterinary assistant and State 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.
  - 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.
- 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 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 Commission Veterinarian or presiding judge, or tested post race.
- 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 veterinarian's control sheet. A second blood sample shall be extracted from the horse by the Commission Veterinarian.
- 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.
- 8.9.15 Absent aggravating or mitigating findings of fact, the following penalties and disciplinary measures may be imposed for positive test result from a pre-race sample tested on the blood gas analyzer machine:
- 8.9.15.1 First offense:
- 8.9.15.1.1 horse to be placed on Stewards List for 14 days, must pass a requalifying test and requalify to compete in purse events;
- 8.9.15.1.2 trainer to be assessed \$1,000 fine;
- 8.9.15.2 Second offense within two years of first offense:
- 8.9.15.2.1 horse to be placed on Stewards List for 30 days, must pass a requalifying test and requalify to compete in purse events;
- 8.9.15.2.2 trainer to be assessed \$2,000 fine and suspended for ten days;
- 8.9.15.3 Third offense within two years of second offense:
- 8.9.15.3.1 horse to be placed on Stewards List for 90 days, must pass a requalifying test and requalify to compete in purse events;
- 8.9.15.3.2 trainer to be assessed \$3,500 fine and full suspension for one hundred and fifty days and license made probationary;
- 8.9.15.4 Fourth offense within two years of third offense:
- 8.9.15.4.1 horse to be prohibited from racing in Delaware;



8.9.15.4.2 trainer to be assessed \$5,000 fine and full suspension for three hundred and sixty five days and required to reapply for licenses following completion of suspension;

8.9.15.5 In determining the appropriate penalty with respect to a positive test result from a pre-race sample tested on the blood gas analyzer machine, the Presiding Judge or other designee of the Commission may use his discretion in the application of the foregoing penalty recommendations, and may consult with the Commission veterinarian and/or the Commission chemist to determine the seriousness of the test result. 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 determines 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 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;

8.9.15.6 A requalifying test with respect to a particular offense shall not give rise to a subsequent offense. A trainer shall be subject to the increased penalties and disciplinary measures in Regulation 8.9.15 for second, third and fourth offenses with respect to any horse trained by the trainer.

#### 8.10 Quarantine Procedure For Carbon Dioxide Positive Tests (Prerace Or Postrace)

8.10.1 Detention/Quarantine of Horses: The owner or trainer must request use of the quarantine procedure by sending written notice to the presiding judge within forty-eight (48) hours of notification of the positive carbon dioxide test report. The owner or trainer will then be permitted, totally at his own expense, to make the necessary scheduling arrangements with the Judges and the Commission Veterinarian. The horse in question will be quarantined on the grounds for periodic blood gas testing by the DHRC (up to three days) at the trainer's expense. All caretaker activities for the horse in question will be the responsibility of the horse's trainer.

8.10.2 Procedure: The owner or trainer will be responsible for providing the DHRC with a minimum check for \$1,500.00 to cover the costs for the quarantine. A professionally trained Track Security Officer must be with the horse at all times, and the Security Officer must be knowledgeable about the importance of monitoring all activity pertaining to the quarantined horse.

8.10.3 The quarantine of a horse is subject to the following mandatory requirements:

8.10.3.1 The owner or trainer will be required to deposit sufficient funds with the DHRC Presiding Judge to cover the costs of the quarantine of the horse. The minimum quarantine cost will be \$1,500, and this figure may be higher if additional special circumstances are required for a particular horse. None of these procedures will be initiated until the Commission has in its possession a certified check or other method of payment acceptable to the Commission. The owner or trainer is responsible for all costs for the quarantine, including but not limited to, the costs of: stall bedding, daily cleaning of the stall, feed and hay, stall rent, hourly guard salary, portable toilet rental, veterinary charge, courier or shipping charges to the laboratory, laboratory analysis costs. Unused funds will be returned to the trainer.

8.10.3.2 The expected period of the quarantine will be seventy-two hours.

8.10.3.3 The owner or trainer is required to execute a reasonable liability waiver form if requested to do so by the track for the quarantine of the horse on track grounds.

8.10.3.4 The owner or trainer is obligated to reimburse the track if the racing association is required to purchase additional insurance to cover risks from the quarantine of the trainer's horse. The owner or trainer is also responsible for any additional costs required by the track to pad or otherwise specially equip the quarantine stall.

8.10.3.5 All activity of the quarantined horse is observed, documented, and recorded by security officers for the track and the DHRC.

8.10.3.6 The Commission will be responsible for arranging for and providing for bedding, feed, water, and daily cleaning of the stall, all of which are at the owner's expense. Feed for the horse will be purchased by DHRC officials as specified by the owner or trainer. Samples of the feed will be retained by the DHRC designated official.

8.10.3.7 Each bale of hay/straw will be intact and uncut for inspection of contraband. Four small samples of hay are to be taken from the bale of hay used to feed the animal (one from each end of the bale of hay and two from the middle of the bale of hay). These samples with the ingredient tags from the bag of feed used by the horse will be retained by the DHRC designated official.

- 8.10.3.8 Every trainer, groom, or caretaker is subject to continuous observation and may be searched when with the horse for contraband.
- 8.10.3.9 Horses may be trained, but if leg paints or salves are used, they must be new and in unopened containers, and the track Security Officer must monitor the preparation of the horse.
- 8.10.3.10 A Security Officer must observe the horse during training and ensure that it does not leave the track except to return to the quarantine stall.
- 8.10.3.11 A sick horse must only be determined ill by the Commission Veterinarian and the quarantine of the horse will be terminated. Any bills incurred for the quarantine of the horse prior to the illness and termination of the detention will be prorated.
- 8.10.3.12 Stalls for the quarantine of horses are designated by the Presiding Judge of the DHRC, in cooperation with the racetrack.
- 8.10.3.13 Trainers can restrict water based on previous pre-race preparation schedules.
- 8.10.3.14 Trainers are expected to train their horse in the same manner as the horse was trained on previous racing events. The horse will be equipped with all the items that it would normally carry, taken to the paddock, and handled in a manner similar to previous racing events.
- 8.10.3.15 Blood samples will be taken from the quarantined horse by the Commission Veterinarian, as he deems appropriate and necessary during the quarantine period. A blood sample should be taken when the horse first enters the quarantine stall and again at the pre-arranged time between sixty (60) and seventy-two (72) hours. At the discretion of the Commission, another sample may be taken between the initial sample and the sample taken at the cessation of the quarantine period. Blood samples will only be taken from the horse that is at rest for a period of time approved by the Commission Veterinarian. The owner or trainer or his representative must be present and witness the collection of the blood samples. Blood samples will be shipped promptly to the Commission's designated testing laboratory, pursuant to the Commission's standard chain-of-custody procedures.
- 8.10.3.16 At the conclusion of the quarantine period, the party requesting the quarantine will be provided timely notice of the test results from the DHRC. The trainer may present such evidence at a hearing before the Judges if he attempts to prove that the horse has a naturally high carbon dioxide level.

<b>1 DE Reg. 505 (11/01/97)</b>	<b>9 DE Reg. 1066 (01/01/06)</b>
<b>1 DE Reg. 923 (1/1/98)</b>	<b>9 DE Reg. 1367 (03/01/06)</b>
<b>3 DE Reg. 1520 (5/1/00)</b>	<b>9 DE Reg. 1951 (06/01/06)</b>
<b>4 DE Reg. 6 (7/1/00)</b>	<b>10 DE Reg. 980 (12/01/06)</b>
<b>4 DE Reg. 336 (8/1/00)</b>	<b>10 DE Reg. 1424 (03/01/06)</b>
<b>5 DE Reg. 832 (10/1/01)</b>	<b>11 DE Reg. 1050 (02/01/08)</b>
<b>5 DE Reg. 1691 (3/1/02)</b>	<b>12 DE Reg. 324 (09/01/08)</b>
<b>6 DE Reg. 862 (1/1/03)</b>	<b>14 DE Reg. 1339 (06/01/11)</b>
<b>7 DE Reg. 1512 (5/1/04)</b>	<b>15 DE Reg. 58 (07/01/11)</b>
<b>8 DE Reg. 329 (8/1/04)</b>	<b>15 DE Reg. 1322 (03/01/12)</b>
<b>8 DE Reg. 698 (11/01/04)</b>	<b>16 DE Reg. 282 (09/01/12)</b>
<b>8 DE Reg. 1108 (02/01/05)</b>	

## **9.0 Pari-Mutuel Wagering**

### **9.1 General Provisions**

#### **9.1.1 General**

Each Association shall conduct wagering in accordance with applicable laws and these rules. Such wagering shall employ a pari-mutuel system approved by the Commission. The totalizator shall be tested prior to and during the meeting as required by the Commission.

#### **9.1.2 Records**

The Association shall maintain records of all wagering so the Commission may review such records for any contest including the opening line, subsequent odds fluctuation, the amount and at which window wagers were placed on any betting interest and such other information as may be required. Such wagering records shall be retained by each Association and safeguarded for a period of time specified by the

Commission. The Commission may require that certain of these records be made available to the wagering public at the completion of each contest.

#### 9.1.3 Recording of a Wager

A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool operated by the Association and is evidence of the obligation of the Association to pay to the holder thereof such portion of the distributable amount of the pari-mutuel pool as is represented by such valid pari-mutuel ticket. The Association shall cash all valid winning tickets when such are presented for payment during the course of the meeting where sold, and for a specified period after the last day of the meeting.

9.1.3.1 To be deemed a valid pari-mutuel ticket, such ticket shall have been issued by a pari-mutuel ticket machine operated by the Association and recorded as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as to:

9.1.3.1.1 the name of the Association operating the meeting.

9.1.3.1.2 a unique identifying number or code.

9.1.3.1.3 identification of the terminal at which the ticket was issued.

9.1.3.1.4 a designation of the performance for which the wagering transaction was issued.

9.1.3.1.5 the contest number for which the pool is conducted.

9.1.3.1.6 the type or types of wagers represented.

9.1.3.1.7 the number or numbers representing the betting interests for which the wager is recorded.

9.1.3.1.8 the amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence.

9.1.3.2 No pari-mutuel ticket recorded or reported as previously paid, canceled, or nonexistent shall be deemed a valid pari-mutuel ticket by the Association. The Association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid.

#### 9.1.4 Pari-Mutuel Ticket Sales

9.1.4.1 Pari-mutuel tickets shall not be sold by anyone other than an Association licensed to conduct pari-mutuel wagering.

9.1.4.2 No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no Association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator is closed for wagering on such contest.

9.1.4.3 Claims pertaining to a mistake on an issued or unissued ticket, or a mistake involving failure to issue a ticket, must be made by the bettor prior to leaving the seller's window. Cancellation or exchange of tickets issued shall not be permitted after a patron has left a seller's window except in accordance with written policies established by the Association subject to review by the Commission.

9.1.4.4 Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared "official". Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the Presiding Judge, by the judges or by the Commission shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

9.1.4.5 The Association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

#### 9.1.5 Advance Performance Wagering

No Association shall permit wagering to begin more than one hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the Commission.

#### 9.1.6 Claims for Payment from Pari-Mutuel Pool

In the case of a disputed claim made for payment on a pari-mutuel wager, and following receipt of a report by the Association regarding the disputed claim, the Commission may adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the Association, or may deny the claim, or may make such other order as it may deem proper.

#### 9.1.7 Payment for Errors

If an error occurs in the payment amounts for pari-mutuel wagers which are cashed or entitled to be cashed; and as a result of such error the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following shall apply:

9.1.7.1 Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payoffs is equal to the total gross pool. If the amount of the pool is more than the

amount used to calculate the payoff, the underpayment shall be added to the corresponding pool of the next contest. If underpayments are discovered after the close of the meeting, the underpayment shall be held in an interest-bearing account approved by the Commission until being added, together with accrued interest, to the corresponding pool of the next meet.

- 9.1.7.2 In the event the error results in an overpayment to winning wagers, the Association shall be responsible for such payment.

#### 9.1.8 Betting Explanation

A summary explanation of pari-mutuel wagering and each type of betting pool offered shall be available upon request through Association representatives.

#### 9.1.9 Display of Betting Information

- 9.1.9.1 Approximate odds for Win pool betting shall be posted on display devices within view of the wagering public and updated at intervals of not more than 90 seconds.
- 9.1.9.2 The probable payoff or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the Commission.
- 9.1.9.3 Official results and payoffs must be displayed upon each contest being declared official.

#### 9.1.10 Canceled Contests

If a contest is canceled or declared "no contest", refunds shall be granted on valid wagers in accordance with these rules.

#### 9.1.11 Refunds

- 9.1.11.1 Notwithstanding other provisions of these rules, refunds of the entire pool shall be made on:
  - 9.1.11.1.1 Win pools and first-half Double pools offered in contests in which the number of betting interests has been reduced to fewer than two (2).
  - 9.1.11.1.2 Place pools, Exacta pools, Quinella pools, Trifecta pools, first-half Quinella Double pools, first-half Twin Quinella pools, first-half Twin Trifecta pools, and first-half Tri-Superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than three (3).
  - 9.1.11.1.3 Show pools, Superfecta pools, and first-half Twin Superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four (4).
- 9.1.11.2 Authorized refunds shall be paid upon presentation and surrender of the affected pari-mutuel ticket.

#### 9.1.12 Coupled Entries and Mutuel Fields

- 9.1.12.1 Contestants coupled in wagering as a coupled entry or mutuel field shall be considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestants in that coupled entry or mutuel field shall remain valid betting interests and no refunds will be granted. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests shall be refunded, notwithstanding other provisions of these rules.
- 9.1.12.2 For the purpose of price calculations only, coupled entries and mutuel fields shall be calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule shall apply to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules.

#### 9.1.13 Pools Dependent Upon Betting Interests

Unless the Presiding Judge otherwise determines, at the time the pools are opened for wagering, the Association:

- 9.1.13.1 may offer win, place, and show wagering on all contests with six (6) or more betting interests.
- 9.1.13.2 may be allowed to prohibit show wagering on any contest with five (5) or fewer betting interests scheduled to start.
- 9.1.13.3 may be allowed to prohibit place wagering on any contest with four (4) or fewer betting interests scheduled to start.
- 9.1.13.4 may be allowed to prohibit Quinella wagering on any contest with three (3) or fewer betting interests scheduled to start.
- 9.1.13.5 may be allowed to prohibit Quinella Double wagering on any contests with three (3) or fewer betting interests scheduled to start.
- 9.1.13.6 may be allowed to prohibit Exacta wagering on any contest with three (3) or fewer betting interests scheduled to start.

- 9.1.13.7 may be allowed to prohibit Trifecta wagering on any contest with seven (7) or fewer betting interests scheduled to start.
- 9.1.13.8 may be allowed to prohibit Superfecta wagering on any contest with seven (7) or fewer betting interests scheduled to start.
- 9.1.13.9 may be allowed to prohibit Twin Quinella wagering on any contests with three (3) or fewer betting interests scheduled to start.
- 9.1.13.10 shall prohibit Twin Trifecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.
- 9.1.13.11 shall prohibit Tri-Superfecta wagering on any contests with of seven (7) or fewer betting interests scheduled to start.
- 9.1.13.12 shall prohibit Twin Superfecta wagering on any contests with seven (7) or fewer betting interests scheduled to start.
- 9.1.13.13 may be allowed to prohibit Show Quinella wagering on any contest with four (4) or fewer betting interests scheduled to start.
- 9.1.13.14 may drop any entry from wagering.

#### 9.1.14 Prior Approval Required For Betting Pools

- 9.1.14.1 An Association that desires to offer new forms of wagering must apply in writing to the Commission and receive written approval prior to implementing the new betting pool.
- 9.1.14.2 The Association may suspend previously- approved forms of wagering with the prior approval of the Commission. Any carryover shall be held until the suspended form of wagering is reinstated. An Association may request approval of a form of wagering or separate wagering pool for specific performances.

#### 9.1.15 Closing of Wagering in a Contest

- 9.1.15.1 A Commission representative shall close wagering for each live racing contest after which time no pari-mutuel tickets shall be sold for that contest.
- 9.1.15.2 The Association shall maintain, in good order, a system approved by the Commission for closing wagering.

#### 9.1.16 Complaints Pertaining to Pari-Mutuel Operations

When a patron makes a complaint regarding the pari-mutuel department to an Association, the Association shall prepare a complaint report, setting out:

- 9.1.16.1 the name of the complainant;
- 9.1.16.2 the nature of the complaint;
- 9.1.16.3 the name of the persons, if any, against whom the complaint was made;
- 9.1.16.4 the date of the complaint;
- 9.1.16.5 the action taken or proposed to be taken, if any, by the Association.

#### 9.1.17 Duty to Report Irregularities

All employees and horsemen shall report any known irregularities or wrong doings by any person involving pari-mutuel wagering immediately to the Commission and to the Association, and shall cooperate in subsequent investigations.

#### 9.1.18 Unrestricted Access

The Association shall permit the Commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the Association that relate to pari-mutuel wagering.

#### 9.1.19 Emergency Situations

In the event of an emergency in connection with the pari-mutuel department not covered in these rules, the pari-mutuel manager representing the Association shall report the problem to the Presiding Judge and the Association and the Presiding Judge shall render a full report to the Commission within 48 hours.

### 9.2 Account Wagering [Reserved]

### 9.3 Simulcast Wagering

#### 9.3.1 Duties of Simulcast Host

- 9.3.1.1 Every host Association simulcasting its performance, if requested, may contract with an authorized receiver for the purpose of providing authorized users its simulcast.
- 9.3.1.2 A host Association is responsible for content of the simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of each performance.

9.3.1.3 Unless otherwise permitted by the Commission, every simulcast will contain in its video content a digital display of actual time of day, the name of the host facility from where it emanates, the number of the contest being displayed, and any other relevant information available to patrons at the host facility.

9.3.1.4 The host Association shall maintain such security controls including encryption over its uplink and communications systems as directed or approved by the Commission.

#### 9.3.2 Duties of Authorized Receiver

9.3.2.1 An authorized receiver conducts and operates a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of one or more host Associations and with the approval of the Commission.

9.3.2.2 An authorized receiver shall provide:

9.3.2.2.1 adequate transmitting and receiving equipment of acceptable broadcast quality, which shall not interfere with the closed circuit TV system of the host Association for providing any host facility patron information.

9.3.2.2.2 pari-mutuel terminals, pari-mutuel odds displays, modems and switching units enabling pari-mutuel data transmissions, and data communications between the host and guest Associations.

9.3.2.3 The guest Association and all authorized receivers shall conduct pari-mutuel wagering pursuant to the applicable Commission rules.

9.3.2.4 The Commission may appoint at least one designee to monitor and inspect as necessary all approved simulcast facilities.

9.3.2.5 Not less than 30 minutes prior to the commencement of transmission of the performance of pari-mutuel contests for each day or night, the guest Association shall initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system.

9.3.2.6 Every authorized receiver shall file with the Commission an annual report of its simulcast operations as part of the financial reports required by 4.2.2 of these Rules.

#### 9.4 Interstate Common Pool Wagering

##### 9.4.1 General

9.4.1.1 Participation in interstate common pools shall be approved by the Commission.

9.4.1.2 Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined for computing odds and calculating payoffs but will be held separate for auditing and all other purposes.

9.4.1.3 Any surcharges or withholdings in addition to the takeout shall only be applied in the jurisdiction otherwise imposing such surcharges or withholdings.

9.4.1.4 In determining whether to approve an interstate common pool which does not include the host track or which includes contests from more than one Association, the Commission shall consider and may approve use of a bet type which is not utilized at the host track, application of a takeout rate not in effect at the host track, or other factors which are presented to the Commission.

9.4.1.5 The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules.

##### 9.4.2 Guest State Participation in Interstate Common Pools

9.4.2.1 With the prior approval of the Commission, pari-mutuel wagering pools may be combined with corresponding wagering pools in the host state, or with corresponding pools established by one or more other jurisdictions.

9.4.2.2 The Commission may permit adjustment of the takeout from the pari-mutuel pool so that the takeout rate in this jurisdiction is identical to that at the host track, or identical to that of other jurisdictions participating in the merged pool.

9.4.2.3 Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.

9.4.2.4 Rules established in the state of the host Association designated for a pari-mutuel pool shall apply.

9.4.2.5 The Commission shall approve agreements made between the Association and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.

9.4.2.6 If, for any reason, it becomes impossible to successfully merge the bets placed into the interstate common pool, the Association shall make payoffs in accordance with payoff prices that would

have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; or, alternatively, the Association may determine to either pay winning tickets at the payoff prices at the host track, or declare such accepted bets void and make refunds in accordance with the applicable rules.

#### 9.4.3 Host State Participation in Merged Pools

- 9.4.3.1 An Association licensed to conduct pari-mutuel wagering may determine that one or more of its contests be utilized for pari- mutuel wagering at guest facilities in other states, and may also determine that pari- mutuel pools in guest states be combined with corresponding wagering pools established by it as the host track or comparable wagering pools established by two or more states.
- 9.4.3.2 Rules of racing established for races held in this state shall also apply to interstate common pools unless the Commission shall have specifically otherwise determined.
- 9.4.3.3 The Commission shall approve agreements made between the Association and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.
- 9.4.3.4 Any contract for interstate common pools entered into by the Association shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state into the interstate common pool formed by the Association, or if, for any reason, the Commission's or the Association's representative determines that attempting to effect transfer of pool data from the guest state may endanger the Association's wagering pool, the Association shall have no liability for any measures taken which may result in the guest's wagers not being accepted into the pool.

### 9.5 Calculation of Payouts and Distribution of Pools

#### 9.5.1 General

- 9.5.1.1 All permitted pari-mutuel wagering pools shall be separately and independently calculated and distributed. Takeout shall be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool shall constitute the net pool for distribution as payoff on winning wagers.
- 9.5.1.2 Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools.
- 9.5.1.3 Minimum payout shall be \$.05 for each dollar wagered. One half of the odd cents of all redistributions to be made on pari-mutuel or totalizator pool contributions exceeding the sum equal to the lowest multiple of 10, such odd cents to be calculated on the basis of each dollar wagered.
- 9.5.1.4 The individual pools outlined in these rules may be given alternative names by each Association, provided prior approval is obtained from the Commission.

#### 9.5.2 Win Pools

- 9.5.2.1 The amount wagered on the betting interest which finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to Win on that betting interest.
- 9.5.2.2 The net Win pool shall be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish:
  - 9.5.2.2.1 To those whose selection finished first; but if there are no such wagers, then
  - 9.5.2.2.2 To those whose selection finished second; but if there are no such wagers, then
  - 9.5.2.2.3 To those whose selection finished third; but if there are no such wagers, then
  - 9.5.2.2.4 The entire pool shall be refunded on Win wagers for that contest.
- 9.5.2.3 If there is a dead heat for first involving:
  - 9.5.2.3.1 contestants representing the same betting interest, the Win pool shall be distributed as if no dead heat occurred.
  - 9.5.2.3.2 contestants representing two or more betting interests, the Win pool shall be distributed as a profit split.

#### 9.5.3 Place Pools

- 9.5.3.1 The amounts wagered to Place on the first two betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two equal portions, one being assigned to each winning betting interest and divided by the amount wagered to Place on that betting interest, the resulting quotient is the profit per dollar wagered to Place on that betting interest.

9.5.3.2 The net Place pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

9.5.3.2.1 If contestants of a coupled entry or mutuel field finished in the first two places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise

9.5.3.2.2 As a profit split to those whose selection is included within the first two finishers; but if there are no such wagers on one of those two finishers, then

9.5.3.2.3 As a single price pool to those who selected the one covered betting interest included within the first two finishers; but if there are no such wagers, then

9.5.3.2.4 As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then

9.5.3.2.5 The entire pool shall be refunded on Place wagers for that contest.

9.5.3.3 If there is a dead heat for first involving:

9.5.3.3.1 contestants representing the same betting interest, the Place pool shall be distributed as a single price pool.

9.5.3.3.2 contestants representing two or more betting interests, the Place pool shall be distributed as a profit split.

9.5.3.4 If there is a dead heat for second involving:

9.5.3.4.1 contestants representing the same betting interest, the Place pool shall be distributed as if no dead heat occurred.

9.5.3.4.2 contestants representing two or more betting interests, the Place pool is divided with one-half (1/2) of the pro-fit distributed to Place wagers on the betting interest finishing first and the remainder is distributed equally amongst Place wagers on those betting interests involved in the dead heat for second.

#### 9.5.4 Show Pools

9.5.4.1 The amounts wagered to Show on the first three betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three equal portions, one being assigned to each winning betting interest and divided by the amount wagered to Show on that betting interest, the resulting quotient being the profit per dollar wagered to Show on that betting interest. The net Show pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

9.5.4.1.1 If contestants of a coupled entry or mutuel field finished in the first three places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise

9.5.4.1.2 If contestants of a coupled entry or mutuel field finished as two of the first three finishers, the profit is divided with two-thirds (2/3) distributed to those who selected the coupled entry or mutuel field and one-third (1/3) distributed to those who selected the other betting interest included within the first three finishers; otherwise

9.5.4.1.3 As a profit split to those whose selection is included within the first three finishers; but if there are no such wagers on one of those three finishers, then

9.5.4.1.4 As a profit split to those who selected one of the two covered betting interests included within the first three finishers; but if there are no such wagers on two of those three finishers, then

9.5.4.1.5 As a single price pool to those who selected the one covered betting interest included within the first three finishers; but if there are no such wagers, then

9.5.4.1.6 As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then

9.5.4.1.7 The entire pool shall be refunded on Show wagers for that contest.

9.5.4.2 If there is a dead heat for first involving:

9.5.4.2.1 two contestants representing the same betting interest, the profit is divided with two-thirds (2/3) distributed to those who selected the first-place finishers and one-third (1/3) distributed to those who selected the betting interest finishing third.

9.5.4.2.2 three contestants representing a single betting interest, the Show pool shall be distributed as a single price pool.

9.5.4.2.3 contestants representing two or more betting interests, the Show pool shall be distributed as a profit split.

9.5.4.3 If there is a dead heat for second involving:



- 9.5.4.3.1 contestants representing the same betting interest, the profit is divided with one-third (1/3) distributed to those who selected the betting interest finishing first and two-thirds (2/3) distributed to those who selected the second-place finishers.
- 9.5.4.3.2 contestants representing two betting interests, the Show pool shall be distributed as a profit split.
- 9.5.4.3.3 contestants representing three betting interests, the Show pool is divided with one-third (1/3) of the profit distributed to Show wagers on the betting interest finishing first and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for second.
- 9.5.4.4 If there is a dead heat for third involving:
  - 9.5.4.4.1 contestants representing the same betting interest, the Show pool shall be distributed as if no dead heat occurred.
  - 9.5.4.4.2 contestants representing two or more betting interests, the Show pool is divided with two-thirds (2/3) of the profit distributed to Show wagers on the betting interests finishing first and second and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for third.
- 9.5.5 Double Pools
  - 9.5.5.1 The Double requires selection of the first-place finisher in each of two specified contests.
  - 9.5.5.2 The net Double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
    - 9.5.5.2.1 As a single price pool to those whose selection finished first in each of the two contests; but if there are no such wagers, then
    - 9.5.5.2.2 As a profit split to those who selected the first-place finisher in either of the two contests; but if there are no such wagers, then
    - 9.5.5.2.3 As a single price pool to those who selected the one covered first-place finisher in either contest; but if there are no such wagers, then
    - 9.5.5.2.4 As a single price pool to those whose selection finished second in each of the two contests; but if there are no such wagers, then
    - 9.5.5.2.5 The entire pool shall be refunded on Double wagers for those contests.
  - 9.5.5.3 If there is a dead heat for first in either of the two contests involving:
    - 9.5.5.3.1 contestants representing the same betting interest, the Double pool shall be distributed as if no dead heat occurred.
    - 9.5.5.3.2 contestants representing two or more betting interests, the Double pool shall be distributed as a profit split if there is more than one covered winning combination.
  - 9.5.5.4 Should a betting interest in the first-half of the Double be scratched prior to the first Double contest being declared official, all money wagered on combinations including the scratched betting interest shall be deducted from the Double pool and refunded.
  - 9.5.5.5 Should a betting interest in the second-half of the Double be scratched prior to the close of wagering on the first Double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the Double pool and refunded.
  - 9.5.5.6 Should a betting interest in the second-half of the Double be scratched after the close of wagering on the first Double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net Double pool shall be divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net Double pool before calculation and distribution of the winning Double payoff. Dead heats including separate betting interests in the first contest shall result in a consolation payoff calculated as a profit split.
  - 9.5.5.7 If either of the Double contests are canceled prior to the first Double contest, or the first Double contest is declared "no contest", the entire Double pool shall be refunded on Double wagers for those contests.
  - 9.5.5.8 If the second Double contest is canceled or declared "no contest" after the conclusion of the first Double contest, the net Double pool shall be distributed as a single price pool to wagers selecting

the winner of the first Double contest. In the event of a dead heat involving separate betting interests, the net Double pool shall be distributed as a profit split.

#### 9.5.6 Pick Three Pools

- 9.5.6.1 The Pick Three requires selection of the first-place finisher in each of three specified contests.
- 9.5.6.2 The net Pick Three pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
  - 9.5.6.2.1 As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then
  - 9.5.6.2.2 As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then
  - 9.5.6.2.3 As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then
  - 9.5.6.2.4 The entire pool shall be refunded on Pick Three wagers for those contests.
- 9.5.6.3 If there is a dead heat for first in any of the three contests involving:
  - 9.5.6.3.1 contestants representing the same betting interest, the Pick Three pool shall be distributed as if no dead heat occurred.
  - 9.5.6.3.2 contestants representing two or more betting interests, the Pick Three pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- 9.5.6.4 Should a betting interest in any of the three Pick Three contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
- 9.5.6.5 If all three Pick Three contests are canceled or declared "no contest", the entire pool shall be refunded on Pick Three wagers for those contests.
- 9.5.6.6 If one or two of the Pick Three contests are canceled or declared "no contest", the Pick Three pool will remain valid and shall be distributed in accordance with 9.5.6.2 of this rule.

#### 9.5.7 Pick (n) Pools

- 9.5.7.1 The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The Association must obtain written approval from the Commission concerning the scheduling of Pick (n) contests, the designation of one of the methods prescribed in Part (2), and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Commission.
- 9.5.7.2 The Pick (n) pool shall be apportioned under one of the following methods:
  - 9.5.7.2.1 Method 1, Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder shall be added to the carryover.
  - 9.5.7.2.2 Method 2, Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major share shall be added to the carryover.
  - 9.5.7.2.3 Method 3, Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

- 9.5.7.2.4 Method 4, Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool shall be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.
- 9.5.7.2.5 Method 5, Pick (n) with Minor Pool and No Carryover: The major share of net Pick (n) pool shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded.
- 9.5.7.2.6 Method 6, Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool shall be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carry-over, if any, shall be distributed to those who selected the first-place finisher of each of the Pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool shall be added to the Major carry-over. If there is only one single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, shall be distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool shall be added to the Jackpot carryover. The Minor share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests.
- 9.5.7.3 If there is a dead heat for first in any of the Pick (n) contests involving:
- 9.5.7.3.1 contestants representing the same betting interest, the Pick (n) pool shall be distributed as if no dead heat occurred.
- 9.5.7.3.2 contestants representing two or more betting interests, the Pick (n) pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- 9.5.7.4 Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host Association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
- 9.5.7.5 The Pick (n) pool shall be canceled and all Pick (n) wagers for the individual performance shall be refunded if:
- 9.5.7.5.1 at least two contests included as part of a Pick 3 are canceled or declared "no contest."
- 9.5.7.5.2 at least three contests included as part of a Pick 4, Pick 5 or Pick 6 are canceled or declared "no contest."
- 9.5.7.5.3 at least four contests included as part of a Pick 7, Pick 8 or Pick 9 are canceled or declared "no contest."

- 9.5.7.5.4 at least five contests included as part of a Pick 10 are canceled or declared "no contest."
- 9.5.7.6 If at least one contest included as part of a Pick (n) is canceled or declared "no contest", but not more than the number specified in subsection 5 of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances.
- 9.5.7.7 The Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, shall be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance.
- 9.5.7.8 A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- 9.5.7.9 Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- 9.5.7.9.1 Upon written approval from the Commission as provided in 9.5.7.8 of this rule.
- 9.5.7.9.2 Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Pick (n) wagering to another, or when the Pick (n) is discontinued.
- 9.5.7.9.3 On the closing performance of the meet or split meet.
- 9.5.7.10 If, for any reason, the Pick (n) carryover must be held over to the corresponding Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Pick (n) carryover plus accrued interest shall then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Commission.
- 9.5.7.11 With the written approval of the Commission, the Association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap.
- 9.5.7.12 Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
- 9.5.7.13 The Association may suspend previously- approved Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Pick (n) wagering is reinstated. An Association may request approval of a Pick (n) wager or separate wagering pool for specific performances.
- 9.5.8 Place Pick (n) Pools
- 9.5.8.1 The Place Pick (n) requires selection of the first or second-place finisher in each of a designated number of contests. The Association must obtain written approval from the Commission concerning the scheduling of Place Pick (n) contests, the designation of one of the methods prescribed in Part (2), the distinctive name identifying the pool and the amount of any cap to be set on the carryover. Any changes to the approved Place Pick (n) format require prior approval from the Commission.
- 9.5.8.2 The Place Pick (n) pool shall be apportioned under one of the following methods:
- 9.5.8.2.1 Method 1, Place Pick (n) with Carryover: The net Place Pick (n) pool and carryover, if any, shall be distributed as a single price pool to those who selected the first or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests; and the remainder shall be added to the carryover.
- 9.5.8.2.2 Method 2, Place Pick (n) with Minor Pool and Carryover: The major share of the net Place Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected

the first or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher of all Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests; and the major share shall be added to the carryover.

- 9.5.8.2.3 Method 3, Place Pick (n) with No Minor Pool and No Carryover: The net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.
- 9.5.8.2.4 Method 4, Place Pick (n) with Minor Pool and No Carryover: The major share of the net Place Pick (n) pool shall be distributed to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher in a second greatest number of Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests. If the greatest number of first or second-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.
- 9.5.8.2.5 Method 5, Place Pick (n) with Minor Pool and No Carryover: The major share of net Place Pick (n) pool shall be distributed to those who selected the first or second-place finisher in each of the Place Pick (n) contests, based upon the official order of finish. The minor share of the net Place Pick (n) pool shall be distributed to those who selected the first or second-place finisher in the second greatest number of Place Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first or second-place finisher in all Place Pick (n) contests, the entire net Place Pick (n) pool shall be distributed as a single price pool to those who selected the first or second-place finisher in the greatest number of Place Pick (n) contests. If there are no wagers selecting the first or second-place finisher in a second greatest number of Place Pick (n) contests, the minor share of the net Place Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first or second-place finisher in each of the Place Pick (n) contests. If there are no winning wagers, the pool is refunded.
- 9.5.8.3 If there is a dead heat for first in any of the Place Pick (n) contests involving:
  - 9.5.8.3.1 contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.
  - 9.5.8.3.2 contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single price pool with a winning wager including each betting interest participating in the dead heat.
- 9.5.8.4 If there is a dead heat for second in any of the Place Pick (n) contests involving:
  - 9.5.8.4.1 contestants representing the same betting interest, the Place Pick (n) pool shall be distributed as if no dead heat occurred.
  - 9.5.8.4.2 contestants representing two or more betting interests, the Place Pick (n) pool shall be distributed as a single price pool with a winning wager including the betting interest which finished first or any betting interest involved in the dead heat for second.
- 9.5.8.5 Should a betting interest in any of the Place Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the host Association for the contest at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
- 9.5.8.6 The Place Pick (n) pool shall be canceled and all Place Pick (n) wagers for the individual performance shall be refunded if:
  - 9.5.8.6.1 at least two contests included as part of a Place Pick 3 are canceled or declared "no contest."

- 9.5.8.6.2 at least three contests included as part of a Place Pick 4, Place Pick 5 or Place Pick 6 are canceled or declared "no contest."
- 9.5.8.6.3 at least four contests included as part of a Place Pick 7, Place Pick 8 or Place Pick 9 are canceled or declared "no contest."
- 9.5.8.6.4 at least five contests included as part of a Place Pick 10 are canceled or declared "no contest."
- 9.5.8.7 If at least one contest included as part of a Place Pick (n) is canceled or declared "no contest", but not more than the number specified in subsection 6 of this rule, the net pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance. Such distribution shall include the portion ordinarily retained for the Place Pick (n) carryover but not the carryover from previous performances.
- 9.5.8.8 The Place Pick (n) carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Place Pick (n) carryover equals or exceeds the designated cap, the Place Pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Place Pick (n) carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Place Pick (n) carryover, shall be distributed to those whose selection finished first or second in the greatest number of Place Pick (n) contests for that performance.
- 9.5.8.9 A written request for permission to distribute the Place Pick (n) carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- 9.5.8.10 Should the Place Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first or second-place finisher in each of the Place Pick (n) contests, the entire pool shall be distributed as a single price pool to those whose selection finished first or second in the greatest number of Place Pick (n) contests. The Place Pick (n) carryover shall be designated for distribution on a specified date and performance under any of the following circumstances:
  - 9.5.8.10.1 Upon written approval from the Commission as provided in 9.5.8.9 of this rule.
  - 9.5.8.10.2 Upon written approval from the Commission when there is a change in the carryover cap, a change from one type of Place Pick (n) wagering to another, or when the Place Pick (n) is discontinued.
  - 9.5.8.10.3 On the closing performance of the meet or split meet.
- 9.5.8.11 If, for any reason, the Place Pick (n) carryover must be held over to the corresponding Place Pick (n) pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Place Pick (n) carryover plus accrued interest shall then be added to the net Place Pick (n) pool of the following meet on a date and performance so designated by the Commission.
- 9.5.8.12 With the written approval of the Commission, the Association may contribute to the Place Pick (n) carryover a sum of money up to the amount of any designated cap.
- 9.5.8.13 Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
- 9.5.8.14 The Association may suspend previously-approved Place Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Place Pick (n) wagering is reinstated. An Association may request approval of a Place Pick (n) wager or separate wagering pool for specific performances.
- 9.5.9 Quinella Pools
  - 9.5.9.1 The Quinella requires selection of the first two finishers, irrespective of order, for a single contest.
  - 9.5.9.2 The net Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
    - 9.5.9.2.1 If contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise
    - 9.5.9.2.2 As a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then

- 9.5.9.2.3 As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of the those two finishers, then
- 9.5.9.2.4 As a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then
- 9.5.9.2.5 The entire pool shall be refunded on Quinella wagers for that contest.
- 9.5.9.3 If there is a dead heat for first involving:
  - 9.5.9.3.1 contestants representing the same betting interest, the Quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.
  - 9.5.9.3.2 contestants representing two betting interests, the Quinella pool shall be distributed as if no dead heat occurred.
  - 9.5.9.3.3 contestants representing three or more betting interests, the Quinella pool shall be distributed as a profit split.
- 9.5.9.4 If there is a dead heat for second involving contestants representing the same betting interest, the Quinella pool shall be distributed as if no dead heat occurred.
- 9.5.9.5 If there is a dead heat for second involving contestants representing two or more betting interests, the Quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:
  - 9.5.9.5.1 As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then
  - 9.5.9.5.2 As a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then
  - 9.5.9.5.3 As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then
  - 9.5.9.5.4 As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then
  - 9.5.9.5.5 The entire pool shall be refunded on Quinella wagers for that contest.
- 9.5.10 Quinella Double Pools
  - 9.5.10.1 The Quinella Double requires selection of the first two finishers, irrespective of order, in each of two specified contests.
  - 9.5.10.2 The net Quinella Double pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
    - 9.5.10.2.1 If a coupled entry or mutuel field finishes as the first two contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two finishers in the alternate Quinella Double contest; otherwise
    - 9.5.10.2.2 As a single price pool to those who selected the first two finishers in each of the two Quinella Double contests; but if there are no such wagers, then
    - 9.5.10.2.3 As a profit split to those who selected the first two finishers in either of the two Quinella Double contests; but if there are no such wagers on one of those contests, then
    - 9.5.10.2.4 As a single price pool to those who selected the first two finishers in the one covered Quinella Double contest; but if there were no such wagers, then
    - 9.5.10.2.5 The entire pool shall be refunded on Quinella Double wagers for those contests.
  - 9.5.10.3 If there is a dead heat for first in either of the two Quinella Double contests involving:
    - 9.5.10.3.1 contestants representing the same betting interest, the Quinella Double pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest.
    - 9.5.10.3.2 contestants representing two betting interests, the Quinella Double pool shall be distributed as if no dead heat occurred.
    - 9.5.10.3.3 contestants representing three or more betting interests, the Quinella Double pool shall be distributed as a profit split.
  - 9.5.10.4 If there is a dead heat for second in either of the Quinella Double contests involving contestants representing the same betting interest, the Quinella Double pool shall be distributed as if no dead heat occurred.

- 9.5.10.5 If there is a dead heat for second in either of the Quinella Double contests involving contestants representing two or more betting interests, the Quinella Double pool shall be distributed as profit split.
- 9.5.10.6 Should a betting interest in the first-half of the Quinella Double be scratched prior to the first Quinella Double contest being declared official, all money wagered on combinations including the scratched betting interest shall deducted from the Quinella Double pool and refunded.
- 9.5.10.7 Should a betting interest in the second-half of the Quinella Double be scratched prior to the close of wagering on the first Quinella Double contest, all money wagered on combinations including the scratched betting interest shall be deducted from the Quinella Double pool and refunded.
- 9.5.10.8 Should a betting interest in the second-half of the Quinella Double be scratched after the close of wagering on the first Quinella Double contest, all wagers combining the winning combination in the first contest with a combination including the scratched betting interest in the second contest shall be allocated a consolation payoff. In calculating the consolation payoff the net Quinella Double pool shall be divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payoff. Breakage is not declared in this calculation. The consolation payoff is deducted from the net Quinella Double pool before calculation and distribution of the winning Quinella Double payoff. In the event of a dead heat involving separate betting interests, the net Quinella Double pool shall be distributed as a profit split.
- 9.5.10.9 If either of the Quinella Double contests is canceled prior to the first Quinella Double contest, or the first Quinella Double contest is declared "no contest", the entire Quinella Double pool shall be refunded on Quinella Double wagers for those contests.
- 9.5.10.10 If the second Quinella Double contest is canceled or declared "no contest" after the conclusion of the first Quinella Double contest, the net Quinella Double pool shall be distributed as a single price pool to wagers selecting the winning combination in the first Quinella Double contest. If there are no wagers selecting the winning combination in the first Quinella Double contest, the entire Quinella Double pool shall be refunded on Quinella Double wagers for those contests.
- 9.5.11 Show Quinella Pools
  - 9.5.11.1 The Show Quinella requires selection of two (2) of the first three (3) finishers, irrespective of order, for a single contest.
  - 9.5.11.2 The Show Quinella pool shall be apportioned under one of the following methods:
    - 9.5.11.2.1 Method 1, Single Price and Refund: The net Show Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
      - 9.5.11.2.1.1 As a single price pool to those whose combinations finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then
      - 9.5.11.2.1.2 The entire pool shall be refunded on Show Quinella wagers for that contest.
    - 9.5.11.2.2 Method 2, Single Price and Carryover: The net Show Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
      - 9.5.11.2.2.1 As a single price pool to those whose combinations finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then
      - 9.5.11.2.2.2 The net pool will be carried forward and added to the next Show Quinella pool.
    - 9.5.11.2.3 Method 3, Profit Split and Refund: The net Show Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
      - 9.5.11.2.3.1 As a profit split to those whose combinations finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then
      - 9.5.11.2.3.2 The entire pool shall be refunded on Show Quinella wagers for that contest.
    - 9.5.11.2.4 Method 4, Profit Split and Carryover: The net Show Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
      - 9.5.11.2.4.1 As a profit split to those whose combinations finished as the first two betting interests, the first and third betting interests and/or the second and third betting interests; but if there are no such wagers, then



- 9.5.11.2.4.2 The net pool will be carried forward and added to the next Show Quinella pool.
- 9.5.11.3 If there is a dead heat for first involving:
- 9.5.11.3.1 contestants representing two or three betting interests, the Show Quinella pool shall be distributed as if no dead heat occurred.
  - 9.5.11.3.2 contestants representing four or more betting interests, the Show Quinella pool shall be distributed between all possible winning combinations based upon the method selected in 9.5.11.2.
- 9.5.11.4 If there is a dead heat for second involving:
- 9.5.11.4.1 contestants representing two betting interests, the Show Quinella pool shall be distributed as if no dead heat occurred.
  - 9.5.11.4.2 contestants representing three or more betting interests, the Show Quinella pool shall be distributed between all possible winning combinations based upon the method selected in 9.5.11.2.
- 9.5.11.5 If there is a dead heat for third involving contestants representing two or more betting interests, the Show Quinella pool shall be distributed between all possible winning combinations, including those betting interests in the dead heat, based upon the method selected in 9.5.11.2.
- 9.5.11.6 Should any betting interest entered in the Show Quinella pool be scratched or excused from the contest, wagers including such betting interest shall be deducted from the Show Quinella pool and money refunded.
- 9.5.11.7 If, for any reason, the Show Quinella carryover must be held over to the corresponding Show Quinella pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Show Quinella carryover plus accrued interest shall be added to the net Show Quinella pool of the following meet on a date and performance so designated by the Commission.
- 9.5.12 Exacta Pools
- 9.5.12.1 The Exacta requires selection of the first two finishers, in their exact order, for a single contest.
- 9.5.12.2 The net Exacta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
- 9.5.12.2.1 If contestants of a coupled entry or mutuel field finish as the first two finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise
  - 9.5.12.2.2 As a single price pool to those whose combination finished in correct sequence as the first two betting interests; but if there are no such wagers, then
  - 9.5.12.2.3 As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one of those two finishers, then
  - 9.5.12.2.4 As a single price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then
  - 9.5.12.2.5 The entire pool shall be refunded on Exacta wagers for that contest.
- 9.5.12.3 If there is a dead heat for first involving:
- 9.5.12.3.1 contestants representing the same betting interest, the Exacta pool shall be distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.
  - 9.5.12.3.2 contestants representing two or more betting interests, the Exacta pool shall be distributed as a profit split.
- 9.5.12.4 If there is a dead heat for second involving contestants representing the same betting interest, the Exacta pool shall be distributed as if no dead heat occurred.
- 9.5.12.5 If there is a dead heat for second involving contestants representing two or more betting interests, the Exacta pool shall be distributed to ticket holders in the following precedence, based upon the official order of finish:
- 9.5.12.5.1 As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then
  - 9.5.12.5.2 As a single price pool to those combining the first-place betting interest with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then

9.5.12.5.3 As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then

9.5.12.5.4 The entire pool shall be refunded on Exacta wagers for that contest.

#### 9.5.13 Trifecta Pools

9.5.13.1 The Trifecta requires selection of the first three finishers, in their exact order, for a single contest.

9.5.13.2 The net Trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

9.5.13.2.1 As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then

9.5.13.2.2 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

9.5.13.2.3 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

9.5.13.2.4 The entire pool shall be refunded on Trifecta wagers for that contest.

9.5.13.3 If less than three betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

9.5.13.4 If there is a dead heat for first involving:

9.5.13.4.1 contestants representing three or more betting interests, all of the wagering combinations selecting three betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

9.5.13.4.2 contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place betting interest shall share in a profit split.

9.5.13.5 If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second shall share in a profit split.

9.5.13.6 If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third shall share in a profit split.

#### 9.5.14 Superfecta Pools

9.5.14.1 The Superfecta requires selection of the first four finishers, in their exact order, for a single contest.

9.5.14.2 The net Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

9.5.14.2.1 As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

9.5.14.2.2 As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

9.5.14.2.3 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

9.5.14.2.4 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

9.5.14.2.5 The entire pool shall be refunded on Superfecta wagers for that contest.

9.5.14.3 If less than four betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest shall be ignored.

9.5.14.4 If there is a dead heat for first involving:

9.5.14.4.1 contestants representing four or more betting interests, all of the wagering combinations selecting four betting interests which correspond with any of the betting interests involved in the dead heat shall share in a profit split.

9.5.14.4.2 contestants representing three betting interests, all of the wagering combinations selecting the three dead-heated betting interests, irrespective of order, along with the fourth-place betting interest shall share in a profit split.

- 9.5.14.4.3 contestants representing two betting interests, both of the wagering combinations selecting the two dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests shall share in a profit split.
- 9.5.14.5 If there is a dead heat for second involving:
  - 9.5.14.5.1 contestants representing three or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three betting interests involved in the dead heat for second shall share in a profit split.
  - 9.5.14.5.2 contestants representing two betting interests, all of the wagering combinations correctly selecting the winner, the two dead-heated betting interests, irrespective of order, and the fourth-place betting interest shall share in a profit split.
- 9.5.14.6 If there is a dead heat for third, all wagering combinations correctly selecting the first two finishers, in correct sequence, along with any two of the betting interests involved in the dead heat for third shall share in a profit split.
- 9.5.14.7 If there is a dead heat for fourth, all wagering combinations correctly selecting the first three finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth shall share in a profit split.
- 9.5.14.8 Coupled entries and mutuel fields shall be prohibited in Superfecta contests.
- 9.5.15 Twin Quinella Pools
  - 9.5.15.1 The Twin Quinella requires selection of the first two finishers, irrespective of order, in each of two designated contests. Each winning ticket for the first Twin Quinella contest must be exchanged for a free ticket on the second Twin Quinella contest in order to remain eligible for the second-half Twin Quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Quinella contest. There will be no monetary reward for winning the first Twin Quinella contest. Both of the designated Twin Quinella contests shall be included in only one Twin Quinella pool.
  - 9.5.15.2 In the first Twin Quinella contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first Twin Quinella contest:
    - 9.5.15.2.1 If a coupled entry or mutuel field finishes as the first two finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners; otherwise
    - 9.5.15.2.2 Those whose combination finished as the first two betting interests shall be winners; but if there are no such wagers, then
    - 9.5.15.2.3 Those whose combination included either the first- or second-place finisher shall be winners; but if there are no such wagers on one of those two finishers, then
    - 9.5.15.2.4 Those whose combination included the one covered betting interest included within the first two finishers shall be winners; but if there are no such wagers, then
    - 9.5.15.2.5 The entire pool shall be refunded on Twin Quinella wagers for that contest.
  - 9.5.15.3 In the first Twin Quinella contest only, if there is a dead heat for first involving:
    - 9.5.15.3.1 contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish shall be winners.
    - 9.5.15.3.2 contestants representing two betting interests, the winning Twin Quinella wagers shall be determined as if no dead heat occurred.
    - 9.5.15.3.3 contestants representing three or more betting interests, those whose combination included any two of the betting interests finishing in the dead heat shall be winners.
  - 9.5.15.4 In the first Twin Quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, the Twin Quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:
    - 9.5.15.4.1 As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then
    - 9.5.15.4.2 As a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then
    - 9.5.15.4.3 As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then

- 9.5.15.4.4 As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then
- 9.5.15.4.5 The entire pool shall be refunded on Twin Quinella wagers for that contest.
- 9.5.15.5 In the second Twin Quinella contest only, the entire net Twin Quinella pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Quinella contest:
  - 9.5.15.5.1 If a coupled entry or mutuel field finishes as the first two finishers, as a single price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish; otherwise
  - 9.5.15.5.2 As a single price pool to those whose combination finished as the first two betting interests; but if there are no such wagers, then
  - 9.5.15.5.3 As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one of those two finishers, then
  - 9.5.15.5.4 As a single price pool to those whose combination included the one covered betting interest included within the first two finishers; but if there are no such wagers, then
  - 9.5.15.5.5 As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then
  - 9.5.15.5.6 In accordance with 9.5.15.2 of the Twin Quinella rules.
- 9.5.15.6 In the second Twin Quinella contest only, if there is a dead heat for first involving:
  - 9.5.15.6.1 contestants representing the same betting interest, the net Twin Quinella pool shall be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish.
  - 9.5.15.6.2 contestants representing two betting interests, the net Twin Quinella pool shall be distributed as if no dead heat occurred.
  - 9.5.15.6.3 contestants representing three or more betting interests, the net Twin Quinella pool shall be distributed as a profit split to those whose combination included any two of the betting interests finishing in the dead heat.
- 9.5.15.7 In the second Twin Quinella contest only, if there is a dead heat for second involving contestants representing two or more betting interests, the Twin Quinella pool shall be distributed to wagers in the following precedence, based upon the official order of finish:
  - 9.5.15.7.1 As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one covered combination, then
  - 9.5.15.7.2 As a single price pool to those combining the winner with the one covered betting interest involved in the dead heat for second; but if there are no such wagers, then
  - 9.5.15.7.3 As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then
  - 9.5.15.7.4 As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second, then
  - 9.5.15.7.5 As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then
  - 9.5.15.7.6 In accordance with 9.5.15.2 of the Twin Quinella rules.
- 9.5.15.8 If a winning ticket for the first-half of the Twin Quinella is not presented for exchange prior to the close of betting on the second- half Twin Quinella contest, the ticket holder forfeits all rights to any distribution of the Twin Quinella pool resulting from the outcome of the second contest.
- 9.5.15.9 Should a betting interest in the first-half of the Twin Quinella be scratched, those Twin Quinella wagers including the scratched betting interest shall be refunded.
- 9.5.15.10 Should a betting interest in the second-half of the Twin Quinella be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Quinella contest, the ticket holder forfeits all rights to the Twin Quinella pool.
- 9.5.15.11 If either of the Twin Quinella contests is canceled prior to the first Twin Quinella contest, or the first Twin Quinella contest is declared "no contest", the entire Twin Quinella pool shall be refunded on Twin Quinella wagers for that contest.

- 9.5.15.12 If the second-half Twin Quinella contest is canceled or declared "no contest" after the conclusion of the first Twin Quinella contest, the net Twin Quinella pool shall be distributed as a single price pool to wagers selecting the winning combination in the first Twin Quinella contest and all valid exchange tickets. If there is no such wagers, the net Twin Quinella pool shall be distributed as described in 9.5.15.2 of the Twin Quinella rules.

#### 9.5.16 Twin Trifecta Pools

- 9.5.16.1 The Twin Trifecta requires selection of the first three finishers, in their exact order, in each of two designated contests. Each winning ticket for the first Twin Trifecta contest must be exchanged for a free ticket on the second Twin Trifecta contest in order to remain eligible for the second-half Twin Trifecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Trifecta contest. Winning first-half Twin Trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated Twin Trifecta contests shall be included in only one Twin Trifecta pool.
- 9.5.16.2 After wagering closes for the first-half of the Twin Trifecta and commissions have been deducted from the pool, the net pool shall then be divided into separate pools: the first-half Twin Trifecta pool and the second-half Twin Trifecta pool.
- 9.5.16.3 In the first Twin Trifecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first Twin Trifecta contest:
- 9.5.16.3.1 As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then
  - 9.5.16.3.2 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
  - 9.5.16.3.3 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then
  - 9.5.16.3.4 The entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that contest and the second-half shall be canceled.
- 9.5.16.4 If no first-half Twin Trifecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half Twin Trifecta pool. In such case, the second-half Twin Trifecta pool shall be retained and added to any existing Twin Trifecta carryover pool.
- 9.5.16.5 Winning tickets from the first-half of the Twin Trifecta shall be exchanged for tickets selecting the first three finishers of the second-half of the Twin Trifecta. The second-half Twin Trifecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Trifecta contest:
- 9.5.16.5.1 As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first three betting interests; but if there are no such tickets, then
  - 9.5.16.5.2 The entire second-half Twin Trifecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half Twin Trifecta pool of the next consecutive performance.
- 9.5.16.6 If a winning first-half Twin Trifecta ticket is not presented for cashing and exchange prior to the second-half Twin Trifecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Trifecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool.
- 9.5.16.7 Coupled entries and mutuel fields shall be prohibited in Twin Trifecta contests.
- 9.5.16.8 Should a betting interest in the first-half of the Twin Trifecta be scratched, those Twin Trifecta wagers including the scratched betting interest shall be refunded.
- 9.5.16.9 Should a betting interest in the second-half of the Twin Trifecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta contest, the ticket holder forfeits all rights to the second-half Twin Trifecta pool.
- 9.5.16.10 If, due to a late scratch, the number of betting interests in the second-half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half Twin Trifecta pool for that contest as a single price pool, but not the Twin Trifecta carryover.

- 9.5.16.11 If there is a dead heat or multiple dead heats in either the first- or second-half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:
- 9.5.16.11.1 the first-half of the Twin Trifecta, the payoff shall be calculated as a profit split.
  - 9.5.16.11.2 the second-half of the Twin Trifecta, the payoff shall be calculated as a single price pool.
- 9.5.16.12 If either of the Twin Trifecta contests are canceled prior to the first Twin Trifecta contest, or the first Twin Trifecta contest is declared "no contest", the entire Twin Trifecta pool shall be refunded on Twin Trifecta wagers for that contest and the second-half shall be canceled.
- 9.5.16.13 If the second-half Twin Trifecta contest is canceled or declared "no contest", all exchange tickets and outstanding first-half winning Twin Trifecta tickets shall be entitled to the net Twin Trifecta pool for that contest as a single price pool, but not Twin Trifecta carryover. If there are no such tickets, the net Twin Trifecta pool shall be distributed as described in subsection 3 of the Twin Trifecta rules.
- 9.5.16.14 The Twin Trifecta carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the Twin Trifecta carryover is frozen, 100 percent of the net Twin Trifecta pool for each individual contest shall be distributed to winners of the first-half of the Twin Trifecta pool.
- 9.5.16.15 A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- 9.5.16.16 Should the Twin Trifecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Trifecta after completion of the first-half of the Twin Trifecta:
- 9.5.16.16.1 As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then
  - 9.5.16.16.2 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
  - 9.5.16.16.3 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then
  - 9.5.16.16.4 As a single price pool to holders of valid exchange tickets.
  - 9.5.16.16.5 As a single price pool to holders of outstanding first-half winning tickets.
- 9.5.16.17 Contrary to 9.5.16.4 of the Twin Trifecta rules, during a performance designated to distribute the Twin Trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Trifecta, all first-half tickets will become winners and will receive 100 percent of that days net Twin Trifecta pool and any existing Twin Trifecta carryover.
- 9.5.16.18 The Twin Trifecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- 9.5.16.18.1 Upon written approval from the Commission as provided in 9.5.16 of the Twin Trifecta rules.
  - 9.5.16.18.2 Upon written approval from the Commission when there is a change in the carryover cap or when the Twin Trifecta is discontinued.
  - 9.5.16.18.3 On the closing performance of the meet or split meet.
- 9.5.16.19 If, for any reason, the Twin Trifecta carryover must be held over to the corresponding Twin Trifecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Twin Trifecta carryover plus accrued interest shall then be added to the second-half Twin Trifecta pool of the following meet on a date and performance so designated by the Commission.

- 9.5.16.20 Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.
- 9.5.16.21 The Association must obtain written approval from the Commission concerning the scheduling of Twin Trifecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Trifecta format require prior approval from the Commission.

#### 9.5.17 Tri-Superfecta Pools

- 9.5.17.1 The Tri-Superfecta requires selection of the first three finishers, in their exact order, in the first of two designated contests and the first four finishers, in exact order, in the second of the two designated contests. Each winning ticket for the first Tri-Superfecta contest must be exchanged for a free ticket on the second Tri-Superfecta contest in order to remain eligible for the second-half Tri-Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Tri-Superfecta contest. Winning first-half Tri-Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Tri-superfecta contests shall be included in only one Tri-Superfecta pool.
- 9.5.17.2 After wagering closes for the first-half of the Tri-Superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half Tri-Superfecta pool and the second-half Tri-Superfecta pool.
- 9.5.17.3 In the first Tri-Superfecta contest only, winning tickets shall be determined using the following precedence, based upon the official order of finish for the first Tri-Superfecta contest:
  - 9.5.17.3.1 As a single price pool to those whose combination finished in correct sequence as the first three betting interests; but if there are no such wagers, then
  - 9.5.17.3.2 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
  - 9.5.17.3.3 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then
  - 9.5.17.3.4 The entire Tri-Superfecta pool shall be refunded on Tri-Superfecta wagers for that contest and the second-half shall be canceled.
- 9.5.17.4 If no first-half Tri-Superfecta ticket selects the first three finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half Tri-Superfecta pool. In such case, the second-half Tri-superfecta pool shall be retained and added to any existing Tri-Superfecta carryover pool.
- 9.5.17.5 Winning tickets from the first-half of the Tri-Superfecta shall be exchanged for tickets selecting the first four finishers of the second-half of the Tri-Superfecta. The second-half Tri-Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Tri-Superfecta contest:
  - 9.5.17.5.1 As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then
  - 9.5.17.5.2 The entire second-half Tri-Superfecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half Tri-Superfecta pool of the next performance.
- 9.5.17.6 If a winning first-half Tri-Superfecta ticket is not presented for cashing and exchange prior to the second-half Tri-Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Tri-Superfecta pool but forfeits all rights to any distribution of the second-half Tri-Superfecta pool.
- 9.5.17.7 Coupled entries and mutuel fields shall be prohibited in Tri-Superfecta contests.
- 9.5.17.8 Should a betting interest in the first-half of the Tri-Superfecta be scratched, those Tri-Superfecta tickets including the scratched betting interest shall be refunded.
- 9.5.17.9 Should a betting interest in the second-half of the Tri-Superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Tri-Superfecta contest, the ticket holder forfeits all rights to the second-half Tri-Superfecta pool.

- 9.5.17.10 If, due to a late scratch, the number of betting interests in the second-half of the Tri-Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover.
- 9.5.17.11 If there is a dead heat or multiple dead heats in either the first- or second-half of the Tri-Superfecta, all Tri-Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:
- 9.5.17.11.1 the first-half of the Tri-Superfecta, the payoff shall be calculated as a profit split.
- 9.5.17.11.2 the second-half of the Tri-Superfecta, the payoff shall be calculated as a single price pool.
- 9.5.17.12 If either of the Tri-Superfecta contests are canceled prior to the first Tri-Superfecta contest, or the first Tri-Superfecta contest is declared "no contest", the entire Tri-Superfecta pool shall be refunded on Tri-Superfecta wagers for that contest and the second-half shall be canceled.
- 9.5.17.13 If the second-half Tri-Superfecta contest is canceled or declared "no contest", all exchange tickets and outstanding first-half winning Tri-Superfecta tickets shall be entitled to the net Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. If no there are no such tickets, the net Tri-Superfecta pool shall be distributed as described in subsection 3 of the Tri-Superfecta rules.
- 9.5.17.14 The Tri-Superfecta carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Tri-Superfecta carryover equals or exceeds the designated cap, the Tri-Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Tri-Superfecta carryover is frozen, 100 percent of the net Tri-Superfecta pool for each individual contest shall be distributed to winners of the first-half of the Tri-Superfecta pool.
- 9.5.17.15 A written request for permission to distribute the Tri-Superfecta carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- 9.5.17.16 Should the Tri-Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Tri-Superfecta after completion of the first-half of the Tri-Superfecta:
- 9.5.17.16.1 As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then
- 9.5.17.16.2 As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then
- 9.5.17.16.3 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
- 9.5.17.16.4 As a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then
- 9.5.17.16.5 As a single price pool to holders of valid exchange tickets.
- 9.5.17.16.6 As a single price pool to holders of outstanding first-half winning tickets.
- 9.5.17.17 Contrary to 9.5.17.4 of the Tri-Superfecta rules, during a performance designated to distribute the Tri-Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Tri-Superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Tri-Superfecta, all first-half tickets will become winners and will receive 100 percent of that days net Tri-Superfecta pool and any existing Tri-Superfecta carryover as a single price pool.
- 9.5.17.18 The Tri-Superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:
- 9.5.17.18.1 Upon written approval from the Commission as provided in subsection 15 of the Tri-Superfecta rules.



9.5.17.18.2 Upon written approval from the Commission when there is a change in the carryover cap or when the Tri-Superfecta is discontinued.

9.5.17.18.3 On the closing performance of the meet or split meet.

9.5.17.19 If, for any reason, the Tri-Superfecta carryover must be held over to the corresponding Tri-Superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Tri-Superfecta carryover plus accrued interest shall then be added to the second-half Tri-superfecta pool of the following meet on a date and performance so designated by the Commission.

9.5.17.20 Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

9.5.17.21 The Association must obtain written approval from the Commission concerning the scheduling of Tri-Superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Tri-Superfecta format require prior approval from the Commission.

#### 9.5.18 Twin Superfecta Pools

9.5.18.1 The Twin Superfecta requires selection of the first four finishers, in their exact order, in each of two designated contests. Each winning ticket for the first Twin Superfecta contest must be exchanged for a free ticket on the second Twin Superfecta contest in order to remain eligible for the second-half Twin Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Superfecta contest. Winning first-half Twin Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Twin Superfecta contests shall be included in only one Twin Superfecta pool.

9.5.18.2 After wagering closes for the first-half of the Twin Superfecta and commissions have been deducted from the pool, the net pool shall then be divided into two separate pools: the first-half Twin Superfecta pool and the second-half Twin Superfecta pool.

9.5.18.3 In the first Twin Superfecta contest only, winning wagers shall be determined using the following precedence, based upon the official order of finish for the first Twin Superfecta contest:

9.5.18.3.1 As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then

9.5.18.3.2 As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then

9.5.18.3.3 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then

9.5.18.3.4 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then

9.5.18.3.5 The entire Twin Superfecta pool shall be refunded on Twin Superfecta wagers for that contest and the second-half shall be canceled.

9.5.18.4 If no first-half Twin Superfecta ticket selects the first four finishers of that contest in exact order, winning ticket holders shall not receive any exchange tickets for the second-half Twin Superfecta pool. In such case, the second-half Twin Superfecta pool shall be retained and added to any existing Twin Superfecta carryover pool.

9.5.18.5 Winning tickets from the first-half of the Twin Superfecta shall be exchanged for tickets selecting the first four finishers of the second-half of the Twin Superfecta. The second-half Twin Superfecta pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Superfecta contest:

9.5.18.5.1 As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four betting interests; but if there are no such tickets, then

9.5.18.5.2 The entire second-half Twin Trifecta pool for that contest shall be added to any existing carryover monies and retained for the corresponding second-half Twin Superfecta pool of the next performance.

9.5.18.6 If a winning first-half Twin Superfecta ticket is not presented for cashing and exchange prior to the second-half Twin Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Superfecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool.

- 9.5.18.7 Coupled entries and mutuel fields shall be prohibited in Twin Superfecta contests.
- 9.5.18.8 Should a betting interest in the first-half of the Twin Superfecta be scratched, those Twin Superfecta tickets including the scratched betting interest shall be refunded.
- 9.5.18.9 Should a betting interest in the second-half of the Twin Superfecta be scratched, an announcement concerning the scratch shall be made and a reasonable amount of time shall be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Superfecta contest, the ticket holder forfeits all rights to the second-half Twin Superfecta pool.
- 9.5.18.10 If, due to a late scratch, the number of betting interests in the second-half of the Twin Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets shall be entitled to the second-half Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover.
- 9.5.18.11 If there is a dead heat or multiple dead heats in either the first- or second-half of the Twin Superfecta, all Twin Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, shall be a winner. In the case of a dead heat occurring in:
  - 9.5.18.11.1 the first-half of the Twin Superfecta, the payoff shall be calculated as a profit split.
  - 9.5.18.11.2 the second-half of the Twin Superfecta, the payoff shall be calculated as a single price pool.
- 9.5.18.12 If the either of the Twin Superfecta contests are canceled prior to the first Twin Superfecta contest, or the first Twin Superfecta contest is declared "no contest", the entire Twin Superfecta pool shall be refunded on Twin Superfecta wagers for that contest and the second-half shall be canceled.
- 9.5.18.13 If the second-half Twin Superfecta contest is canceled or declared "no contest", all exchange tickets and outstanding first-half winning Twin Superfecta tickets shall be entitled to the net Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. If there are no such tickets, the net Twin Superfecta pool shall be distributed as described in 9.5.18.3 of the Twin Superfecta rules.
- 9.5.18.14 The Twin Superfecta carryover may be capped at a designated level approved by the Commission so that if, at the close of any performance, the amount in the Twin Superfecta equals or exceeds the designated cap, the Twin Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Twin Superfecta carryover is frozen, 100 percent of the net Twin Superfecta pool for each individual contest shall be distributed to winners of the first-half of the Twin Superfecta pool.
- 9.5.18.15 A written request for permission to distribute the Twin Superfecta carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution.
- 9.5.18.16 Should the Twin Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Superfecta after completion of the first-half of the Twin Superfecta:
  - 9.5.18.16.1 As a single price pool to those whose combination finished in correct sequence as the first four betting interests; but if there are no such wagers, then
  - 9.5.18.16.2 As a single price pool to those whose combination included, in correct sequence, the first three betting interests; but if there are no such wagers, then
  - 9.5.18.16.3 As a single price pool to those whose combination included, in correct sequence, the first two betting interests; but if there are no such wagers, then
  - 9.5.18.16.4 As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then
  - 9.5.18.16.5 As a single price pool to holders of valid exchange tickets.
  - 9.5.18.16.6 As a single price pool to holders of outstanding first-half winning tickets.
- 9.5.18.17 Contrary to 9.5.18.4 of the Twin Superfecta rules, during a performance designated to distribute the Twin Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets

shall be issued for combinations correctly selecting the first- and second- place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets shall be issued for combinations correctly selecting the first- place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Superfecta, all first-half tickets will become winners and will receive 100 percent of that days net Twin Superfecta pool and any existing Twin Superfecta carryover as a single price pool.

9.5.18.18 The Twin Superfecta carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

9.5.18.18.1 Upon written approval from the Commission as provided in 9.5.18.15 of the Twin Superfecta rules.

9.5.18.18.2 Upon written approval from the Commission when there is a change in the carryover cap or when the Twin Superfecta is discontinued.

9.5.18.18.3 On the closing performance of the meet or split meet.

9.5.18.19 If, for any reason, the Twin Superfecta carryover must be held over to the corresponding Twin Superfecta pool of a subsequent meet, the carryover shall be deposited in an interest-bearing account approved by the Commission. The Twin Superfecta carryover plus accrued interest shall then be added to the second-half Twin Superfecta pool of the following meet on a date and performance so designated by the Commission.

9.5.18.20 Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited. This shall not prohibit necessary communication between totalizator and pari-mutuel department employees for processing of pool data.

9.5.18.21 The Association must obtain written approval from the Commission concerning the scheduling of Twin Superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Superfecta format require prior approval from the Commission.

## **12 DE Reg. 1305 (04/01/09)**

### **10.0 Due Process and Disciplinary Action**

#### **10.1 General Provisions**

This chapter contains the rules of procedure for judges' hearings, and for Commission proceedings.

#### **10.2 Proceedings by Presiding Judge or Judges**

##### **10.2.1 Rights of the Licensee**

A person who is the subject of the disciplinary hearing conducted by the judges is entitled to:

10.2.1.1 Proper notice of all charges;

10.2.1.2 Confront the evidence presented, including:

10.2.1.2.1 the right to counsel at the person's expense;

10.2.1.2.2 the right to examine all evidence to be presented against him;

10.2.1.2.3 the right to present a defense;

10.2.1.2.4 the right to call witnesses; and

10.2.1.2.5 the right to cross examine witnesses.

10.2.1.3 Waive any of the above rights.

##### **10.2.2 Complaints**

10.2.2.1 A complaint must be in writing and filed with the Presiding Judge or judges within 30 days after the action that is the subject of the complaint.

10.2.2.2 On their own motion or on receipt of a complaint from an official or other person regarding the actions of a licensee, the Presiding Judge or judges may conduct an inquiry and disciplinary hearing regarding a licensee's actions.

##### **10.2.3 Summary Suspension**

10.2.3.1 If the Board of Judges determines that a licensee's actions, other than those of a licensed Association, constitute an immediate danger to the public health, safety or welfare, the Board of Judges, may summarily suspend the license pending a hearing.

10.2.3.2 A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third racing day after the license was summarily suspended. The licensee may waive his right to a hearing on the summary suspension within the three-day limit.

- 10.2.3.3 The Board of Judges shall conduct a hearing on a summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

#### 10.2.4 Notice

- 10.2.4.1 Except as provided by these rules regarding summary suspensions, the Board of Judges shall provide written notice at least 24 hours before the hearing to a person who is the subject of a disciplinary hearing. The person may waive his right to 24-hour notice by executing a written waiver.
- 10.2.4.2 Notice given under this section must include:
  - 10.2.4.2.1 a statement of the time, place and nature of the hearing;
  - 10.2.4.2.2 a reference to the particular sections of the statutes or rules involved; and
  - 10.2.4.2.3 a short, plain description of the alleged conduct that has given rise to the disciplinary hearing.
- 10.2.4.3 If possible, the Board of Judges or their designee shall hand deliver the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the Board of Judges shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the Board of Judges shall provide written or oral notice of the hearing to the owner, managing owner or lessee of the horse. Oral notice of any hearing shall suffice upon attestation by the Board of Judges that such notice was given the person who is the subject of the hearing.
- 10.2.4.4 Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the Board of Judges. The Board of Judges may suspend the license of a person who fails to appear at a disciplinary hearing after written or oral notice of the hearing has been sent or delivered in compliance with this subsection.

#### 10.2.5 Continuances

- 10.2.5.1 Upon receipt of a notice, a person may request a continuance of the hearing.
- 10.2.5.2 The Board of Judges may grant a continuance of any hearing for good cause shown.
- 10.2.5.3 The Board of Judges may at any time order a continuance on their own motion.

#### 10.2.6 Evidence

- 10.2.6.1 Each witness at a disciplinary hearing conducted by the Board of Judges must be sworn by the presiding judge.
- 10.2.6.2 The Board of Judges shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Board of Judges may disallow evidence that is irrelevant or unduly repetitive of other evidence. The Board of Judges shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The Board of Judges may admit hearsay evidence if it determines the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by Delaware law apply in hearings before the Board of Judges.
- 10.2.6.3 The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Commission rule.
- 10.2.6.4 The Board of Judges may make a tape recording of a disciplinary hearing. A copy or a transcript of the recording may be made available at the expense of the requesting person.

#### 10.2.7 Ruling

- 10.2.7.1 The issues at a disciplinary hearing shall be decided by a majority vote of the Board of Judges.
- 10.2.7.2 A ruling by the Board of Judges must be on a form prescribed by the Commission and include:
  - 10.2.7.2.1 the full name, year of birth and license type of the person who is the subject of the hearing;
  - 10.2.7.2.2 a statement of the charges against the person, including a reference to the specific section of the Act or rules of the Commission that the licensee is found to have violated;
  - 10.2.7.2.3 the date of the hearing and the date the ruling was issued;
  - 10.2.7.2.4 the penalty imposed;
  - 10.2.7.2.5 any changes in the order of finish or purse distribution;
  - 10.2.7.2.6 other information required by the Commission; and
  - 10.2.7.2.7 the right to appeal to the Commission.
- 10.2.7.3 A ruling must be signed by the Presiding Judge on behalf of the Board of Judges.

- 10.2.7.4 Upon request, the Board of Judges or their designee shall hand deliver or mail a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the Board of Judges shall mail the ruling to the person's last known address, as found in the Commission's licensing files, by regular mail. A copy of the ruling shall be sent to the Association of Racing Commissioners International, and if the ruling includes the disqualification of a horse, the Board of Judges shall provide a copy of the ruling to the horsemen's bookkeeper, breed registry(ies) and other regulatory agencies, and shall notify the United States Trotting Association, in the manner provided by this subsection.
- 10.2.7.5 At the time the Board of Judges informs a person who is the subject of the proceeding of the ruling, it shall inform the person of the person's right to appeal the ruling to the Commission.
- 10.2.7.6 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.

#### 10.2.8 Effect of Rulings

- 10.2.8.1 Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee.
- 10.2.8.2 The transfer of a horse to avoid application of a Commission rule or ruling is prohibited.
- 10.2.8.3 The horses of a trainer issued a full suspension (or under appeal of a full suspension) shall not be transferred for the purposes of training to a spouse, family member, assistant, current employee/ employer, or household member. All trainer and owner transfers of horses from parties under a full suspension (or parties under appeal of a full suspension) to other owners or trainers must be approved by the DHRC judges or the DHRC Administrator. (See also 5.2.1.6 - 5.3.3.6.)

#### 10.2.9 Appeals

- 10.2.9.1 A person aggrieved by a ruling of the Board of Judges, or the Administrator of the Breeder's Program may appeal to the Commission except as provided in subdivision 10.2.9.6 of this subsection. A person who fails to file an appeal by the deadline in the form required by this section waives the right to appeal. Appeals of decisions to deny or suspend registrations by the Administrator of the Breeder's Program may be appealed to the Delaware Harness Racing Commission within thirty days of the action by the Administrator of the Breeder's Program, subject to the same rules and procedures for handling appeals under these Rules. For purposes of appeals from decisions of the Administrator of the Breeder's Program, the Commission will take official notice of the rules and regulations enacted by the Delaware Standardbred Breeders' Fund.
- 10.2.9.2 An appeal under this section must be filed with the Presiding Judge not later than 48 hours after the publishing of the ruling. The appeal must be accompanied by a deposit in the amount of \$400, or an amount as determined by the Commission from time to time, plus an amount to be determined from time to time by the Commission for the cost of the court reporter's fee's and attendance plus the costs for providing notice of the appeal. In no event shall the deposit for the appeal be refunded.
- 10.2.9.3 An appeal must be in writing on a form prescribed by the Commission. The appeal must include:
  - 10.2.9.3.1 the name, address, telephone number and signature of the person making the appeal; and
  - 10.2.9.3.2 a statement of the basis for the appeal.
- 10.2.9.4 On notification by the Commission that an appeal has been filed, the Board of Judges shall forward to the Commission the record of the proceeding on which the appeal is based.
- 10.2.9.5 If a person against whom a fine has been assessed timely files an appeal of the ruling that assesses the fine, the person need not immediately pay the fine in accordance with these rules.
- 10.2.9.6 A notice of appeal filed with the Commission pursuant to these rules may be accompanied by a request for a stay pending a final decision by the Commission. In his discretion the Presiding Judge may approve such stay requests unless he determines that granting the stay would be adverse to the best interests of racing or inimical to the integrity of the sport. If the Presiding Judge denies a stay request, the appellant may submit a written request to the Commission, in which case the Chairman of the Commission in his discretion may grant or deny the request.

#### 10.3 Proceedings by the Commission

##### 10.3.1 Party Designations

- 10.3.1.1 A person who is the subject of a disciplinary hearing, who filed an appeal from a Board of Judges's ruling, or who otherwise seeks relief from the Commission, is a party to that proceeding.
- 10.3.1.2 A party to a proceeding has the right to present a direct case, cross-examine each witness, submit legal arguments and otherwise participate fully in the proceeding.

10.3.1.3 A party summoned to appear at a hearing must appear unless he is excused by the Commission presiding officer. Parties may appear with counsel licensed to practice law in Delaware, or, with the Commission's approval, counsel licensed to practice law in another jurisdiction provided that such out-of-state counsel associates with a Delaware attorney.

10.3.1.4 A non-party to a proceeding who wishes to appear in a contested case pending before the Commission must prove that he has an effected interest sufficient to create standing in the case. The burden of proof is on the party asserting standing in such a contested case.

#### 10.3.2 Notice

10.3.2.1 Not less than seven (7) days before the date set for a hearing, the Commission shall serve written or oral notice on each party of record to the proceeding. The person may waive his right to said notice by executing a written waiver. Oral notice shall suffice upon attestation by the Presiding Judge or other process server that he personally gave such notice to the person who is the subject of the hearing.

10.3.2.2 If hand delivery or oral notice by the Presiding Judge is not possible, the Commission shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by personal service or certified mail, return receipt requested.

10.3.2.3 A notice of the hearing must include:

10.3.2.3.1 a statement of time, place and nature of the hearing;

10.3.2.3.2 a reference to the particular sections of the statutes and rules involved; and

10.3.2.3.3 a short, plain statement of the matters asserted.

10.3.2.4 If the Commission determines that a material error has been made in a notice of hearing, or that a material change has been made in the nature of a proceeding after notice has been issued, the Commission shall issue a revised notice.

10.3.2.5 A party to a proceeding may move to postpone the proceeding. Unless waived by the Commission, the motion must be in writing, set forth the specific grounds on which it is sought and be filed with the Commission before the date set for hearing. If the person presiding over the proceeding grants the motion for postponement, the Commission shall cause new notice to be issued.

10.3.2.6 After a hearing has begun, the presiding officer may grant a continuance on oral or written motion, without issuing new notice, by announcing the date, time and place for reconvening the hearing before recessing the hearing.

#### 10.3.3 Subpoenas

10.3.3.1 A member of the Commission, the Administrator of Racing, the Board of Judges, the Commission Investigator, or the presiding officer of a Commission proceeding or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence and other documents.

10.3.3.2 The presiding officer of a Commission proceeding or other person authorized by the Commission may administer an oath or affirmation to a witness appearing before the Commission or a person authorized by the Commission.

10.3.3.3 Each party is responsible for proper service of any subpoenas it requests and for the payment of witness fees and expenses as provided by Delaware law.

10.3.3.4 On written request by a party, the presiding officer may issue a subpoena addressed to a sheriff or any constable to require the attendance of witnesses and the production of books, records, papers or other objects as may be necessary and proper for the purposes of a proceeding. A motion for a subpoena to compel the production of books, records, papers or other objects shall be addressed to the appropriate person, shall be verified and shall specify the books, records, papers or other objects desired and the relevant and material facts to be proved by them.

#### 10.3.4 Conferences

10.3.4.1 On written notice, the presiding officer may, on the officer's own motion or on the motion of a party, direct each party to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following:

10.3.4.1.1 simplifying issues;

10.3.4.1.2 amending the pleadings;

10.3.4.1.3 making admissions of fact or stipulations to avoid the unnecessary introduction of proof;

10.3.4.1.4 designating parties;

10.3.4.1.5 setting the order of procedure at a hearing;

- 10.3.4.1.6 identifying and limiting the number of witnesses;
    - 10.3.4.1.7 resolving other matters that may expedite or simplify the disposition of the controversy, including settling issues in dispute; and
    - 10.3.4.1.8 identifying provisions and mandates of statute or rules relating to the issues.
  - 10.3.4.2 The presiding officer shall record the action taken at the prehearing conference unless the parties enter into a written agreement as to the action. The presiding officer may enter appropriate orders concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence and scope of inquiry.
  - 10.3.4.3 During a hearing, on written notice or notice stated into the record, the presiding officer may direct each party or the representative of each party to appear for a conference to consider any matter that may expedite the hearing and serve the interests of justice. The presiding officer shall prepare a written statement regarding the action taken at the conference and the statement must be signed by each party and made a part of the record.
- 10.3.5 Reporters and Transcripts
- 10.3.5.1 If necessary, the Commission shall engage a court reporter to make a stenographic record of a hearing. If there are multiple parties, the Commission may allocate the cost of the reporter and transcript among the parties.
  - 10.3.5.2 If a person requests a transcript of the stenographic record, the Commission may assess the cost of preparing the transcript to the person.
  - 10.3.5.3 A party may challenge an error made in transcribing a hearing by noting the error in writing and suggesting a correction not later than 10 days after the date the transcript is filed with the Commission. The party claiming errors shall serve a copy of the suggested corrections on each party of record, the court reporter and the presiding officer. If proposed corrections are not objected to before the tenth day after the date the corrections were filed with the Commission, the presiding officer may direct that the suggested corrections be made and the manner of making them. If the parties disagree on the suggested corrections, the presiding officer shall determine whether to change the record.
- 10.3.6 Nature of Hearings
- 10.3.6.1 An appeal from a decision of the Board of Judges shall be de novo (a new hearing shall be held with all evidence, testimony and argument to be presented at the new hearing).
  - 10.3.6.2 A hearing in a Commission proceeding is open to the public, provided, however, that witnesses may be sequestered.
  - 10.3.6.3 Unless precluded by law or objected to by a party, the Commission may allow informal disposition of a proceeding without a hearing. Informal disposition includes disposition by stipulation, agreed settlement, consent order and default.
- 10.3.7 Presiding Officers
- 10.3.7.1 A member of the Commission, the Administrator of Racing, or a Commission appointee may serve as the presiding officer for a Commission proceeding.
  - 10.3.7.2 The presiding officer may:
    - 10.3.7.2.1 issue subpoenas to compel the attendance of witnesses and the production of papers and documents;
    - 10.3.7.2.2 administer oaths;
    - 10.3.7.2.3 receive evidence;
    - 10.3.7.2.4 rule on the admissibility of evidence;
    - 10.3.7.2.5 examine witnesses;
    - 10.3.7.2.6 set reasonable times within which a party may present evidence and within which a witness may testify;
    - 10.3.7.2.7 permit and limit oral argument;
    - 10.3.7.2.8 issue interim orders;
    - 10.3.7.2.9 recess a hearing from day to day and place to place;
    - 10.3.7.2.10 request briefs before or after the presiding officer files a report or proposal for decision;
    - 10.3.7.2.11 propose findings of fact and conclusions of law;
    - 10.3.7.2.12 propose orders and decisions; and
    - 10.3.7.2.13 perform other duties necessary to a fair and proper hearing.

- 10.3.7.3 A person serving as the presiding officer of a proceeding must be a disinterested party to the proceeding.

#### 10.3.8 Order of Hearing

- 10.3.8.1 The presiding officer shall open the hearing, make a concise statement of its scope and purposes and announce that a record of the hearing is being made.
- 10.3.8.2 When a hearing has begun, a party or a party's representative may make statements off the record only as permitted by the presiding officer. If a discussion off the record is pertinent, the presiding officer shall summarize the discussion for the record.
- 10.3.8.3 Each appearance by a party, a party's representative or a person who may testify must be entered on the record.
- 10.3.8.4 The presiding officer shall receive motions and afford each party of record an opportunity to make an opening statement.
- 10.3.8.5 Except as otherwise provided by this subsection, the party with the burden of proof is entitled to open and close. The presiding officer shall designate who may open and close in a hearing on a proceeding if the proceeding was initiated by the Commission or if several proceedings are heard on a consolidated record.
- 10.3.8.6 After opening statements, the party with the burden of proof may proceed with the party's direct case. Each party may cross examine each witness.
- 10.3.8.7 After the conclusion of the direct case of the party having the burden of proof, each other party may present their direct case and their witnesses will be subject to cross examination.
- 10.3.8.8 The members of the Commission and/or the presiding officer may examine any witnesses.
- 10.3.8.9 At the conclusion of all evidence and cross examination, the presiding officer shall allow closing statements.
- 10.3.8.10 Before issuing a decision, the Commission or the presiding officer may call on a party for further relevant and material evidence on a issue. The Commission or the presiding officer may not consider the evidence or allow it into the record without giving each party an opportunity to inspect and rebut the evidence.

#### 10.3.9 Behavior

- 10.3.9.1 Each party, witness, attorney or other representative shall behave in all Commission proceedings with dignity, courtesy and respect for the Commission, the presiding officer and all other parties and participants.
- 10.3.9.2 An individual who violates this section may be excluded from a hearing by the presiding officer.

#### 10.3.10 Evidence

- 10.3.10.1 All testimony must be given under oath administered by the presiding officer. The presiding officer may limit the number of witnesses and shall exclude all irrelevant, immaterial or unduly repetitious evidence.
- 10.3.10.2 The presiding officer is not bound by the Rules of Evidence, but the rules of privilege recognized by law in Delaware apply in Commission proceedings.
- 10.3.10.3 A party may object to offered evidence and the objection shall be noted in the record. A party, at the time an objection is made or sought, shall make known to the presiding officer the action the party desires. Formal exceptions to rulings by the presiding officer during a hearing are unnecessary.
- 10.3.10.4 When the presiding officer rules to exclude evidence, the party offering the evidence may make an offer of proof by dictating or submitting in writing the substance of the proposed evidence, before the closing of the hearing. The offer of proof preserves the point for review. The presiding officer may ask a witness or offered witness questions necessary to indicate that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross examination is preserved without making an offer of proof.
- 10.3.10.5 The presiding officer may take official notice of judicially cognizable facts and of facts generally recognized within the area of the Commission's specialized knowledge. The Commission shall notify each party of record before the final decision in a proceeding of each specific fact officially noticed, including any facts or other data in staff memoranda. A party must be given an opportunity to rebut the facts to be noticed.
- 10.3.10.6 The special skills and knowledge of the Commission, the Commission staff, and the officials of the Commission may be used in evaluating the evidence.



- 10.3.10.7 The presiding officer may receive documentary evidence in the form of copies or excerpts if the original is not readily available. On request, the presiding officer shall allow a party to compare the copy with the original. If many similar documents are offered in evidence, the presiding officer may limit the documents admitted to a number which are representative of the total number, or may require that the relevant data be abstracted from the documents and presented as an exhibit. If the presiding officer requires an abstract, the presiding officer shall allow each party or the party's representative to examine the documents from which the abstracts are made.
- 10.3.10.8 The presiding officer may require prepared testimony in a hearing if the presiding officer determines that it will expedite the hearing without substantially prejudicing the interests of a party. Prepared testimony consists of any document that is intended to be offered as evidence and adopted as sworn testimony by a witness who prepared the document or supervised its preparation. A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the Commission on the date set by the presiding officer and shall serve a copy of the prepared testimony on each party of record. The presiding officer may authorize the late filing of prepared testimony on a showing of extenuating circumstances. The prepared testimony of a witness may be incorporated into the record as if read or received as an exhibit, on the witness being sworn and identifying the writing as a true and accurate record of what the testimony would be if the witness were to testify orally. The witness is subject to clarifying questions and to cross examination and the prepared testimony is subject to a motion to strike either in whole or in part.
- 10.3.10.9 The party offering an exhibit shall tender the original of the exhibit to the presiding officer for identification. The party shall furnish one copy to the presiding officer and one copy to each party of record. A document received in evidence may not be withdrawn except with the permission of the presiding officer. If an exhibit has been offered, objected to and excluded and the party offering the exhibit withdraws the offer, the presiding officer shall return the exhibit to the party. If the party does not withdraw the offered exhibit, the exhibit shall be numbered for identification, endorsed by the presiding officer with the ruling on the exhibit and included in the record to preserve the exception.
- 10.3.10.10 The presiding officer may allow a party to offer an exhibit in evidence after the close of the hearing only on a showing of extenuating circumstances and a certificate of service on each party of record.
- 10.3.11 Findings of Fact and Conclusions of Law
- 10.3.11.1 The presiding officer may direct any party to draft and submit proposed findings of fact and conclusions of law or a proposal for decision. The presiding officer may limit the request for proposed findings to a particular issue of fact.
- 10.3.11.2 Proposed findings of fact submitted under this section must be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record the facts appear.
- 10.3.11.3 Only if the presiding officer requires the filing of proposed findings of fact or a proposal for decision is the Commission required to rule on the proposed findings of fact. If a party is permitted but not required to submit proposed findings or a proposal for decision, the Commission is not required to rule on the party's proposed findings.
- 10.3.12 Dismissal
- On its own motion or a motion by a party, the presiding officer may dismiss a proceeding, with or without prejudice, under conditions and for reasons that are just and reasonable, including:
- 10.3.12.1 failure to timely pay all required fees to the Commission;
- 10.3.12.2 unnecessary duplication of proceedings;
- 10.3.12.3 withdrawal;
- 10.3.12.4 moot questions or obsolete petitions; and
- 10.3.12.5 lack of jurisdiction.
- 10.3.13 Orders
- 10.3.13.1 Except as otherwise provided by these rules, the Commission shall issue a final order not later than sixty days after the conclusion of the hearing. A final order of the Commission must be in writing and be signed by a majority of the members of the Commission who voted in favor of the action taken by the Commission. A final order must comply with the requirements of §10128 of the Administrative Procedures Act, and include a brief summary of the evidence, findings of fact based upon the evidence, conclusions of law, and other conclusions required by the Act or by these Rules, and a concise statement of the Commission's determination or action on the matter.

- 10.3.13.2 The Commission staff shall mail or deliver a copy of the order to each party or the party's representative.
- 10.3.13.3 A final order of the Commission takes effect on the date the order is issued, unless otherwise stated in the order.
- 10.3.13.4 If the Commission finds that an imminent peril to the public health, safety or welfare requires an immediate final order in a proceeding, the Commission shall recite that finding in the order in addition to reciting that the order is final from the date issued. An order issued under this subsection is final and appealable from the date issued and a motion for rehearing is not a prerequisite to appeal.

#### 10.3.14 Ex Parte Communications

- 10.3.14.1 No Commission member may discuss the merits of a matter which is pending before the Commission prior to a formal hearing, or between the hearing and announcement of the Commission's final decision.
- 10.3.14.2 The Administrative Procedure Act, Title 29 of the **Delaware Code**, Section 10129, pertaining to ex parte communications, is hereby incorporated by reference.

#### 10.3.15 Appeals

Within fifteen (15) days after service of a final adjudication or order of the Commission, or the imposing of a monetary fine, or of an order of the Commission refusing a petition for rehearing or reconsideration, or of an order following a rehearing or reconsideration, any party shall have the right to appeal therefrom to the Superior Court of the State of Delaware, in the manner provided by law and the Rules of that Court.

#### 10.4 Rulings in Other Jurisdictions

##### 10.4.1 Reciprocity

The Board of Judges shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of horses.

##### 10.4.2 Appeals of Reciprocal Rulings

- 10.4.2.1 Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the Commission to show cause why such ruling should not be enforced in Delaware.
- 10.4.2.2 Any request for such hearing must clearly set forth in writing the reasons for the appeal.

#### 10.5 Attorneys and Pro hac vice admission

- 10.5.1 Only active members of the Delaware Bar and attorneys admitted pro hac vice pursuant to Rule 10.5.2 may represent any person or otherwise provide legal advice or services at any location licensed by the Commission with respect to matters involving the judges or Commission. Representing a person or otherwise providing legal advice or services means providing any legal service for any other person, firm or corporation, with or without compensation, or providing professional legal advice or services where there is a client relationship of trust or reliance, including acting as an advocate in a representative capacity; drafting pleadings or other documents; or performing any act in such capacity in connection with a prospective or pending proceeding before the judges, any employee of the Commission or Commission.
- 10.5.2 Members of the bar of any other state, district or territory of the United States may be admitted to practice pro hac vice, in compliance with Delaware Supreme Court Rule 72. The out-of-state attorney must have the admission pro hac vice granted by the Commission prior to representing a person or otherwise providing legal advice or services as contemplated by these rules.
- 10.5.3 Admission pro hac vice under this rule is discretionary with the Commission. The Commission is not obligated to admit an applicant pro hac vice nor is the Commission bound by a prior decision to admit an applicant pro hac vice. Admission pro hac vice may be revoked by the Commission in accordance with Delaware Supreme Court Rule 62. Admission pro hac vice will be denied or, if granted, will be revoked if the Commission determines that the process is being used to circumvent the normal requirements for the admission of attorneys to the practice of law in Delaware. Absent good cause shown, the Commission has determined that more than one appearance within a 365-day period indicates that the non-Delaware attorney is engaging in a regular practice of law in Delaware and admission pro hac vice will be denied to prevent such situations.
- 10.5.4 An out-of-state attorney rendering services in Delaware in compliance with this rule or here for other reasons is not authorized by anything in this rule to hold himself or herself out, to non-lawyers who have not requested the out-of-state lawyer's presence, as available to assist in potential suits. Nothing in this rule authorizes out-of-state attorneys to solicit, advertise, or otherwise hold themselves out in publications directed solely to this state as available to assist in litigation in Delaware.

1 DE Reg. 505 (11/01/97)  
1 DE Reg. 923 (1/1/98)  
2 DE Reg. 1243 (01/01/99)  
2 DE Reg. 1765 (4/1/99)  
3 DE Reg. 432 (9/1/99)  
3 DE Reg. 1520 (5/1/00)  
4 DE Reg. 6 (7/1/00)  
4 DE Reg. 336 (8/1/00)  
4 DE Reg. 1123 (1/1/01)  
4 DE Reg. 1652 (4/1/01)  
5 DE Reg. 832 (10/1/01)  
5 DE Reg. 1691 (3/1/02)  
5 DE Reg. 1903 (4/1/02)  
6 DE Reg. 862 (1/1/03)  
7 DE Reg. 1512 (5/1/04)  
8 DE Reg. 329 (8/1/04)  
8 DE Reg. 698 (11/01/04)  
8 DE Reg. 1108 (02/01/05)  
9 DE Reg. 1066 (01/01/06)

9 DE Reg. 1367 (03/01/06)  
9 DE Reg. 1951 (06/01/06)  
10 DE Reg. 980 (12/01/06)  
10 DE Reg. 1424 (03/01/06)  
11 DE Reg. 308 (09/01/07)  
11 DE Reg. 1050 (02/01/08)  
12 DE Reg. 324 (09/01/08)  
12 DE Reg. 666 (11/01/08)  
12 DE Reg. 1074 (02/01/09)  
12 DE Reg. 1513 (06/01/09)  
13 DE Reg. 931 (01/01/10)  
13 DE Reg. 1064 (02/01/10)  
14 DE Reg. 1339 (06/01/11)  
15 DE Reg. 58 (07/01/11)  
15 DE Reg. 1322 (03/01/12)  
16 DE Reg. 282 (09/01/12)  
16 DE Reg. 475 (11/01/12)