

**DEPARTMENT OF AGRICULTURE
THOROUGHBRED RACING COMMISSION**

Statutory Authority: 3 Delaware Code, Section 10005; (3 Del.C. §10005)
3 DE Admin. Code 1001

FINAL

ORDER

Pursuant to 29 Del.C. §10118 and 3 Del.C. §10103, the Delaware Thoroughbred Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on February 27, 2007, the Commission makes the following findings and conclusions:

SUMMARY OF THE EVIDENCE

1. The Commission posted public notice of the proposed amendments in the January 1, 2007 in the *Register of Regulations* and for two consecutive weeks in *The News Journal* and *Delaware State News*. The Commission proposed to update:

- Rule 6.0 to better describe license structure and requirements.
- Rule 11.1.1 to require eligibility at the time of entry and starting of a race; and
- Rule 15 to clarify policy and procedure surrounding the use, testing and penalty for prohibited substances and impermissible levels of acceptable substances.

2. The Commission received no written comments during January 2007. The Commission held a public hearing on February 27, 2007 and received public comments:

Regarding Rule 6

from Fritz Burkhardt, Steward. Mr. Burkhardt stated that he believes that this rule change is necessary in order to prevent persons who are not supposed to own horses from owning them. In addition, Mr. Burkhardt stated that it is important to ensure that owners are licensed and to eliminate hidden ownership as much as possible. He believes that this rule change will help facilitate that.

Regarding Rule 11

from Fritz Burkhardt, Steward and William Fasy, Chief Operating Officer, Delaware Park.

a. Mr. Burkhardt stated that he believes that this rule change is necessary in order to prevent persons, for example, from entering a horse in Maryland in a maiden race, and then coming to Delaware and doing the same. In addition, Mr. Burkhardt felt that as this issue has arisen from time to time, it is important for the Commission to clarify its position on the matter.

b. Mr. Fasy stated that this rule will make this situation much easier to deal with.

Regarding Rule 15

from Fritz Burkhardt, Steward; William Fasy, Chief Operating Officer, Delaware Park; Bessie Gruwell, DTHA, Executive Director; Joseph Strug, Dalare Associates, Lab Director; and Dr. John T. Peters, Supervising Commission Veterinarian. In addition, John Wayne, Administrator of the Delaware Thoroughbred Racing Commission, pointed out two typographical errors in the proposed changes to Rule 15. In both proposed Rule 15.12.1.1 and Rule 15.12.1.5, the word "driver" should read "rider." The public comments are reflected below:

a. Mr. Burkhardt stated that the penalties reflected in the proposed change to 15.1.3.1.5 are more appropriate. He hears many complaints from trainers that it makes no sense to have a \$500.00 fine for a Lasix violation but only \$250.00 for a Bute violation. As to the changes adding specific EPO/DPO penalty language, Mr. Burkhardt stated that horses can be in limbo for awhile, pending the receipt of split sample results. He also stated that purse monies are held awhile in abeyance until these cases are worked out as well.

b. Ms. Gruwell agreed with Mr. Burkhardt and stated that a medication violation should be treated differently than a prohibited substance. The perception of the trainers is that the prohibited substances

should receive a harsher penalty.

c. Dr. Peters stated that it is true that it takes time to receive the results of a split sample back. It can be two weeks before the secondary sample can even be sent out for a confirmatory test.

d. Mr. Strug clarified the process of EPO testing. He stated that it takes a while to receive results on split samples. A screening test only is done at the track. Then the sample is sent out to a laboratory that performs in EPO/DPO confirmatory tests. There are currently only two labs that do so, but more are expected soon. EPO testing is handled much differently than regular testing. Also, this new EPO test can only find EPO or DPO for up to 72 hours after administration to the horse. Therefore, it will be possible to tell who is responsible.

e. Mr. Fasy stated that he believes it is prudent to have the split sample come back before the Stewards hold their hearing. He recognizes that sometimes this may continue into the next meet, but that the Stewards will hold the purses in the meantime.

FINDINGS OF FACT AND CONCLUSIONS

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.

4. In light of the lack of written comment on the rule changes as proposed, and the public comment in favor of the changes:

Rule 6 Owners

to Rule 6, the Commission hereby adopts the rule changes as proposed. The Commission believes that this rule change will help the Delaware Thoroughbred Racing Commission rules to be more consistent with our surrounding states surrounding hidden ownership

Rule 11 Entries, Subscriptions, Delegations

to Rule 11.1.1, the Commission hereby adopts the rule changes as proposed. The Commission believes that this rule change will help clarify the Delaware Thoroughbred Racing Commission rules and make them more consistent with our surrounding states' racing rules.

Rule 15 Medication; Testing Procedures

to Rule 15, the Commission hereby adopts the rule changes as proposed, with the exception of two typographical errors. (In both proposed Rule 15.12.1.1 and Rule 15.12.1.5, the word "driver" will be changed to "rider.").

The Commission believes that these rule changes will stress the Delaware Thoroughbred Racing Commission's harsh view of blood doping of horses in making the penalties more severe for EPO and DPO violations. This will send a serious message that the use of these substances will not be tolerated by the Commission. Hopefully, the increased penalties will act as a deterrent to using these substances. In addition, the change to rule 15.10.6.9 is important in that it was an issue in a recent appeal. This change updates the language from an outdated collection container formerly used in testing.

The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on April 1, 2007.

IT IS SO ORDERED this 27th day of March, 2007.

Thoroughbred Racing Commission

Bernard J. Daney, Chairman

Debbie Killeen, Commissioner

Edward J. Stegemeier, Commissioner

W. Duncan Patterson, Secretary

H. James Decker, Commissioner

(Break in Continuity of Sections)

6.0 Owners

6.1 Registration Required Licensing Requirements for Owners:

6.1.1 ~~No horse may be entered or raced in Delaware unless the Owner or each of the part Owners has been granted a current Owner's registration by the Commission, except that for good cause shown, a temporary registration may be issued which will be valid for entering and racing pending administrative processing and final action by the Commission on such Owner's registration application, but in no event shall such temporary registration be considered valid longer than two weeks subsequent to the date such registration application was submitted. Each person who has a five percent or more ownership or beneficial interest in a horse is required to be licensed.~~

6.1.2 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 stewards of a change in trainer of his/her horse. A horse shall not be transferred to a new trainer after entry.

6.1.3 A horse owner of any age may apply for an owner's license. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from his/her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual and other obligations relating to the applicant's participation in racing.

6.1.4 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.

6.1.5 Each licensed owner is responsible for disclosure to the Commission or its designee of the true and entire ownership of each of his/her horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary shall be approved by the stewards. Each owner shall comply with all licensing requirements.

6.1.6 The Commission or its designee may refuse, deny, suspend or revoke an owner's license for the spouse or member of the immediate 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.

6.2 Requirements for Owner's Registration Licensing Requirements for Multiple Owners:

6.2.1 ~~In addition to satisfying the requirements applicable to Permittee, et al., imposed by Rule 2.0, in order to be eligible for registration as an Owner, a person also: 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 of this rule.~~

6.2.1.1 ~~Must be an individual 18 years of age or older.~~

6.2.1.2 ~~All Owners and Trainers shall carry workmen's compensation insurance covering all their employees. This paragraph is intended to include all individuals employed by Owners and Trainers in the training and racing of horses.~~

6.2.1.3 ~~Must own or have under lease a horse eligible to race and be prepared to prove such upon call of the Stewards.~~

6.2.1.4 ~~Must not engage in any activity directly or indirectly involving the racing performance of horses on Licensee's grounds owned and trained by others.~~

6.2.1.4.1 ~~The Commission or its designee, may deny, suspend or revoke an Owner's registration for the spouse, or any member of the immediate family or household, of a person ineligible to be registered as an Owner, unless there is a showing by the applicant or registered Owner, and the Commission so finds, that his participation in racing as an Owner will in no way circumvent the intent of this Rule by permitting a person, under the control or direction of a person ineligible for an Owner's registration, to serve in effect as the alter ego of such ineligible person.~~

6.2.1.4.1 ~~A registered Owner or Trainer may personally serve as a Farrier or Jockey for horses he owns or are registered in his care, provided he has received from the Stewards a certification of his fitness as a competent Farrier or Jockey.~~

~~6.2.1.5 All owners must first secure the services of a Trainer licensed by the Commission before any horse owned by the individual or a partnership may be entered to race at a meet licensed by the Commission.~~

~~6.2.2 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.~~

~~6.2.3 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.~~

~~6.2.4 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 stewards.~~

~~6.2.5 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.~~

~~6.2.6 The written appointment of a managing owner or authorized agent shall be filed with the Commission.~~

~~6.3 Ownership Disclosure:~~

~~6.3.1 Registered Owners and Trainers shall be held jointly responsible for making a full disclosure of the entire ownership of each horse in their care.~~

~~6.3.2 Such disclosure shall identify in writing all individual persons who directly, or indirectly, through a lien, lease, partnership, corporate stockholding, syndication or other joint venture, hold any present or reversionary right, title or interest in and to such horse, and those individual persons who by virtue of any form of interest might exercise control over such horse or can benefit from the racing of such horse; the degree and type of such ownership held by each individual person shall be designated.~~

~~6.3.3 Such disclosure shall be made when registering each horse with the Racing Secretary upon arrival on Licensee's grounds, or at time of entry, whichever event occurs first, and shall be revised immediately upon any subsequent change in such ownership.~~

~~6.3.4 Such disclosure together with all written agreements and affidavits setting out oral agreements pertaining to the ownership of or rights in and to a horse shall be attached to the registration certificate for such horse and filed with the Racing Secretary who shall be responsible for the care and security of such papers while such horse is located on Licensee's grounds.~~

~~6.3.5 Such disclosure is made for the benefit of the public and all documents pertaining to the ownership or lease of a horse filed with the Racing Secretary shall be available for public inspection.~~

~~6.3.6 The Stewards shall review the ownership of each horse entered to race and insure that each registration certificate is properly endorsed by the transferor to the present Owner. For racing purposes, the Stewards may determine the validity of all leases, transfers, and agreements pertaining to the ownership of a horse and may call for adequate evidence of ownership at any time. The Stewards may declare any horse ineligible to race if the ownership or control of such horse is in question.~~

~~6.4 Joint Ownership:~~

~~6.4.1 No more than four individual persons may be registered as Owners of a single horse.~~

~~6.4.2 In the event more than four individual persons own interests in a single horse, through a partnership, corporation, syndication or other joint venture, then such individual persons may designate in writing a member of the partnership, corporation, syndicate or joint venture to represent the entire ownership of and be responsible for such horse as the registered Owner thereof.~~

~~6.4.3 Such agreement or lease shall accompany the application for an Owner's registration. Each person designated as representing the entire ownership of a horse must be registered.~~

~~6.4.4 The Commission may deny, suspend or revoke the registration of any Owner whose ownership of a horse is qualified or limited in part by rights or interests in or to such horse held or controlled by any other individual person or persons ineligible to be registered as an Owner thereof.~~

~~6.53 Leases:~~

~~6.53.1 Horses may be raced under lease provided the lease agreement is annexed to the horse's registration certificate and is approved by the Stewards. The validity of a lease for the purposes of racing a horse in~~

Delaware may be suspended temporarily or voided by the Stewards at any time. No lease may be approved by the Stewards for racing purposes unless:

6.53.1.1 Lessee is registered as an Owner;

6.53.1.2 Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public;

6.53.1.3 Term of the lease is for no less than one year, unless sooner terminated by claim or retirement of the subject horse;

6.53.1.4 Conditions of the lease specify, as to parties to the lease, whether the subject horse can be entered in a race to be claimed. If agreeable to lessor that the subject horse may be entered to be claimed, conditions of the lease must specify the minimum price for which the subject horse can be entered and identify the name of the recipient of the claiming price;

6.53.1.5 Conditions of the lease specify that, upon a claim of the subject horse, the lease shall terminate and all rights in and to such horse shall pass to claimant as a bona fide purchaser;

6.53.1.6 After reviewing the full ownership of such leased horses, the interests of all persons involved in such lease, and the terms and conditions of such lease, the Stewards in their discretion find that such lease:

6.53.1.6.1 Completely divests lessors or sublessors of further control or direction of the racing performance of such horse while under lease; and

6.53.1.6.2 The resultant program listing of lessee would not mislead the betting public by reason of the absence in the program listing of the name of a person or persons possessing a beneficial interest in such leased horse.

6.64 Racing Colors:

6.64.1 Owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by Jockeys during a race, such racing colors to be registered with the Licensee or its Registrar.

6.64.2 Racing colors must be registered annually, the application therefor to accompany application for an Owner's registration.

6.64.3 Registration of racing colors shall be at the discretion of Licensee. Disputes as to rights to particular racing colors shall be determined by the Commission. Licensee or its Registrar may refuse to accept for registration racing colors which:

6.64.3.1 Are not readily distinguishable by color and pattern from racing colors currently registered with Licensee or with the Jockey Club; and

6.64.3.2 Include advertising, promotional, or cartoon symbols or words or which, in the opinion of the Commission, are not in keeping with the traditions of the Turf.

6.6-3-34.4 No horse may be raced in racing colors other than those registered in the name of the horse's Owner without special permission of the Stewards. If an Owner races two or more horses in the same race, jackets shall be identical while caps shall be varied in color or design. Any deviation from registered colors granted by the Stewards shall be immediately announced.

6.6-3-44.5 Owners and Trainers shall be jointly responsible for the condition of racing colors, insuring that they are neat, clean and in good repair and that an adequate number of sets of racing colors are placed in the care of the Clerk of Scales.

6.6-3-54.6 The Clerk of Scales and the Valet serving a Jockey shall be jointly responsible for having the correct jacket and cap on each rider when leaving the Jockey room for the paddock.

6.6-3-64.7 Racing colors are not assignable and registration thereof may be cancelled upon the death of an Owner or upon the revocation or suspension of his Owner's registration.

6.75 Unauthorized Employees:

6.75.1 No Owner or Trainer may employ or contract with a person who holds no permit or authorization to perform an activity on Licensee's grounds for which a permit or authorization is required. An Owner shall immediately notify the Racing Secretary upon change of Trainer during a race meeting.

6.86 Authorized Agent:

6.86.1 A registered Owner may, as a principal, authorize any person, as an agent, to act in such Owner's behalf in all matters pertaining to racing in this State and ownership of horses on Licensee's grounds, as provided by these Rules, infra. A registered Owner, as a principal, shall be jointly liable and responsible with his

Authorized Agent for all acts and omissions of such Authorized Agent, serving in such Owner's behalf in a racing matter, until written notification from such Owner revoking such agency is received by Licensee or its Registrar.

6.97 Suspension:

6.97.1 In the event the registration of an Owner is suspended or revoked, all horses owned wholly or in part by such Owner shall not be permitted to race during such suspension unless such horses are irrevocably transferred to a registered Owner and such transfer is approved by the Stewards as completely and permanently divesting such suspended former Owner of control of or benefit from the subsequent racing of such horses.

6.408 Partnerships:

6.408.1 Partnerships must be registered with Licensee or its Registrar. Partnership papers shall set forth the following:

6.408.1.1 The name and address of every person having an interest in the horse or horses involved;

6.408.1.2 The relative proportion of such interests;

6.408.1.3 To whom the winnings are payable;

6.408.1.4 In whose name the horse or horses shall run;

6.408.1.5 With whom the power of entry and declaration rests;

6.408.1.6 The terms of any contingency, lease or any other arrangement; and

6.408.1.7 The names of the horse or horses involved. Any partner transacting business on behalf of a partnership must own an interest therein at least equal to that owned by any other partner. All partnership registrations must be signed by all of the partners or by their authorized agent.

6.408.1.8 Any alteration in a recorded partnership must be reported in writing to Licensee or its Registrar and signed by all the partners or their authorized agent. All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees and other obligations.

6.449 Duty to Pay Accounts:

6.449.1 Owners having unpaid jockey or other fees at the close of a race meeting shall be billed by Licensee within twenty (20) days of the close of the race meet with a duplicate copy of the bill to the Trainer. Such accounts shall be paid within thirty (30) days from billing date. At the expiration of the thirty (30) day period, it shall be the duty of Licensee to notify the Racing Commission or the Stewards, in writing, of all delinquent accounts, at which time all Owners with outstanding accounts will be suspended until such fees are paid. (Also, see Rule 11.12).

4 DE Reg. 174 (07/01/00)

5 DE Reg. 1694 (03/01/02)

7 DE Reg. 766 (12/01/03)

(Break in Continuity of Sections)

11.0 Entries, Subscriptions, Delegations

11.1 Entering and Eligibility Required:

11.1.1 No horse shall be qualified to start in any race unless such horse has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the Licensee without notice or reason given therefor.

11.1.2 A horse must be eligible at the time of entry.

11.1.3 A horse must be eligible at the time of starting.

11.2 Procedure for Making Entries:

11.2.1 It shall be the absolute responsibility of the Trainer to report bleeders from other jurisdictions to the Commission's Veterinarian or Stewards on official forms from that State prior to entry.

11.2.2 All entries, subscriptions, declarations and scratches shall be lodged with the Racing Secretary and shall not be considered as having been made until received by the Racing Secretary who shall maintain a record of time of receipt of same.

11.2.3 Every entry must be in the name of such horse's registered Owner, as completely disclosed and registered with the Racing Secretary under these Rules and made by the Owner, Trainer or a person deputized by such Owner or Trainer.

11.2.4 Every entry must be in writing, or by telegraph promptly confirmed in writing, except that an entry may be made by telephone to the Racing Secretary but must be confirmed in writing should the Stewards, the Racing Secretary or an assistant to the Racing Secretary so request.

11.2.5 Every entry shall clearly designate the horse so entered. When entered for the first time during a meeting, every horse shall be designated by name, age color, sex, sire, dam and broodmare sire, as reflected by such horse's registration certificate.

11.2.6 No horse may race unless correctly identified to the satisfaction of the Stewards as being the horse duly entered;

11.2.7 In establishing the identity of a horse, responsibility shall be borne by any person attempting to identify such horse as well as the Owner of such horse, all such persons being subject to appropriate disciplinary action for incorrect identification.

11.2.8 At the time of entering a horse, the Trainer of such horse or his representative, must declare to the Racing Secretary or his representative, whether the horse will race on any medication permitted by these Rules and shall not deviate from such declaration.

11.2.9 Within the discretion of the Stewards, a list of horses so declared to race on medication may, in whole or in part, be announced, released for publication or otherwise made public without liability for the accuracy thereof.

11.2.10 In order to claim an apprentice allowance at the time of entry, an Apprentice Jockey must be designated by name.

11.2.11 No alteration may be made in any entry after the closing of entries, except that an error may be corrected.

11.2.12 No horse may be entered in two races to be run on the same day.

11.3 Limitation as to Spouses:

Repealed 1/6/92.

11.4 Mutuel Entries:

11.4.1 All horses entered in the same race and owned wholly or in part by the same owner or spouse thereof shall be joined as a mutuel entry and a single betting interest. Horses shall be regarded as having a common owner when an owner of one horse, either as an individual or as a licensed member of a partnership or as a licensed shareholder of a corporation, has an ownership interest in another horse, either as an individual or as a licensed shareholder of a partnership or as a licensed shareholder of a corporation. No trainer of any horse shall have any ownership interest in any other horse in the same race unless such horses are coupled as a single wagering interest.

11.4.2 No owner shall have more than one horse start in a trifecta or twin-trifecta race. No mutuel entry shall start in a trifecta or twin-trifecta race. However, the Stewards may, in their discretion, permit mutuel entries to start in stakes races and simulcast races when there is trifecta wagering.

11.4.3 Except with the permission of the Stewards, no more than two horses having such common ties through ownership as to require them to be joined as a mutuel entry may be entered in a purse race. When making such double entry, a preference for one of the horses may be made.

11.4.4 In no case may two horses having common ties through ownership start in a purse race to the exclusion of a single interest.

Revised: 6/19/92

11.5 Subscriptions:

11.5.1 Nominations to or entry of a horse in a stakes race is a subscription. Any subscriber to a stakes race may transfer or declare such subscription prior to closing.

11.5.1.1 Joint subscription and entries may be made by any one of the joint Owners of a horse and each such Owner shall be jointly and severally liable for all payments due thereon.

11.5.1.2 Death of a horse or a mistake in its entry, when such horse is eligible, does not release the subscriber or transferee from liability for all stakes fees due thereon. No fees paid in connection with a subscription to a stakes race that is run shall be refunded.

11.5.1.3 Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry or right of entry thereunder; all rights, privileges and obligations shall attach to the successor Owner, including the legal representatives of the decedent.

11.5.1.4 When a horse is sold privately, sold at public auction or claimed, stakes engagements for such horse shall be transferred automatically with such horse to its new Owner, except that if

such horse is transferred to a person whose registration is suspended or otherwise unqualified to race or enter such horse, then subscriptions shall be void as of the date of such transfer.

Rule 11.4 Rev. July 1977

Rule 11.4 Rev. July 1978

11.5.1.5 All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the conditions for such stakes race. In the event a stakes race is not run for any reason, all such subscription fees paid shall be refunded.

11.6 Closings:

11.6.1 Entries for purse races and subscriptions to stakes races shall close at the time designated by the Licensee in the previously published conditions for such races. If a race is not split, no entry, subscription or declaration shall be accepted after such closing time, except that in the event of an emergency or if a purse race fails to fill, then the Racing Secretary may, with the approval of a Steward, extend such closing time.

11.6.2 If the hour of closing is not specified for stakes races, then subscriptions and declarations therefor may be accepted until midnight of the day of closing, provided they are received in time for compliance with every other condition of such race.

11.6.3 Entries which have closed shall be compiled without delay by the Racing Secretary and, along with declarations, be posted.

11.7 Number of Starters in a Race:

11.7.1 The maximum number of starters in any race shall be limited to the number of starting positions afforded by the Licensee's starting gate and such extensions thereof as can be positioned across the width of the track at the starting point for such race. Such maximum number of starters shall be further limited by the number of horses which, in the opinion of the Stewards, considering the safety of the horses and riders and the distance from the start of the first turn, can be afforded a fair and equal start.

11.7.2 If any purse race in the printed condition book fails to fill, then the Licensee may cancel or declare off such race.

11.8 Split or Divided Races:

11.8.1 In the event a race is cancelled or declared off, the Licensee may split any race programmed for the same day and which may previously have been closed.

11.8.2 When a purse race is split, forming two or more separate races, the Racing Secretary shall give notice thereof not less than 15 minutes before such races are closed so as to grant time for the making of additional entries to such split races.

11.8.3 Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions therefor were made and in the absence of specific prohibition by such conditions:

11.8.3.1 Horses originally joined as a mutuel entry shall, to the greatest extent possible, be placed in different divisions of a split race;

11.8.3.2 Division of other entries in any split race may be made according to age, sex or weight, except that such entries not so divided shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of such split race.

11.9 Post Positions:

11.9.1 Post positions for all races shall be determined by lot drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The Racing Secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race includes two or more horses joined as a single betting interest.

11.10 Also Eligible List:

11.10.1 If the number of entries for a purse race exceeds the number of horses permitted to start in such race, then the names of as many as six (6) additional horses may be drawn as provided in Rule 11.9. The names drawn shall be posted, in the order they were drawn, as "also eligible" to start.

11.10.2 After any horses have been excused from a purse race at scratch time, the starting and post position of such horses as needed from the also-eligible list shall be determined by the order in which they appear on the entry sheet.

Revised: 10/26/95

11.10.3 Any Owner or Trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the Racing Secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

11.10.4 Where entries are closed two racing days prior to the running of a race, any horse on an also-eligible list, which has also been drawn into a race as a starter for the succeeding day, shall not be given an opportunity to be drawn into the earlier race for which he had been listed as also-eligible.

11.11 Preferred List; Stars:

11.11.1 The Racing Secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. Horses so eliminated shall be awarded a preference "star" for each such elimination. As to drawing in from the also-eligible list to subsequent races of similar distance and similar conditions, such horses shall be given preference over horses with fewer number or no preference stars.

11.11.2 No preference shall be given a horse otherwise entitled thereto for a race if such horse is also entered for a race on the succeeding day.

11.11.3 No preference shall be given a horse otherwise entitled thereto for a race unless preference is claimed at the time of entry by indicating same on the entry with the word "preferred".

11.12 Arrears:

11.12.1 No horse may be entered or raced if the Owner thereof is in arrears as to any stakes fees due by such Owner, or is indebted in any sum to Licensee, except with the approval of the Racing Secretary. (Also, see Rule 6.11).

11.13 Declarations:

11.13.1 Withdrawal of a horse from a race before closing thereof by the Owner or Trainer or person deputized by either, such being known as a "declaration", shall be made in the same manner as to form, time and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any Licensee.

11.14 Scratches:

11.14.1 Withdrawal of a horse from a race after closing thereof by the Owner or Trainer or person deputized by either, such being known as a "scratch", shall be permitted only under the following conditions:

11.14.1.1 A horse may be scratched from a stakes race for any reason at any time up until 45 minutes before post time for that race.

11.14.1.2 No horse may be scratched from a purse race without approval of the Stewards and unless such intention to scratch has been filed in writing with the Racing Secretary or his assistant at or before the time conspicuously posted as "scratch time". Scratch of one horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the Stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

11.14.1.3 In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Horses that are not physically disabled or sick may be scratched only with the permission and in the manner prescribed by the Stewards.

11.14.1.4 Entry of any horse which has been scratched or excused from starting by the Stewards because of a physical disability or sickness shall not be accepted until the expiration of three calendar days after such horse was scratched or excused.

11.14.1.5 The Stewards will review all cases in which a horse is entered to run at a licensed track in Delaware, while appearing in the entries in another racing jurisdiction, during the five day entry period for Delaware. It shall be a violation of these Rules for a licensee to scratch a horse entered to race in Delaware in order for said horse to race in another jurisdiction within the five day entry period. Violations of this Rule, absent mitigating circumstances, will be subject to fines of not less than \$1,000 and no more than \$2,500. This rule shall not pertain to Handicap and Stake races.

4 DE Reg. 179 (07/01/00)

8 DE Reg. 1289 (03/01/05)

(Break in Continuity of Sections)

15.0 Medication; Testing Procedures

15.1 Prohibition and Control of Medication:

15.1.1 Horses should not compete under the influence of drugs or therapeutic medications. However, horses, in training, like all athletes, may require the administration of therapeutic medications at times to diagnose or treat illness or injury. Certain drugs have no therapeutic use in horses in training, and these drugs should not be administered to horses in training, nor should they be permitted at any concentration in post-race samples. In this context:

15.1.1.1 No horse participating in a race shall carry in its body any substance foreign to the natural horse, except as hereinafter provided.

15.1.1.2 No foreign substance shall be administered to a horse (entered to race) by injection, oral administration, rectal infusion or suppository, or by inhalation within twenty-four (24) hours prior to the scheduled post time for the first race, except as hereinafter provided.

15.1.1.3 No person other than a veterinarian shall have in his possession any equipment for hypodermic injection, any substance for hypodermic administration or any foreign substance which can be administered internally to a horse by any route, except for an existing condition as prescribed by a veterinarian.

15.1.1.4 Notwithstanding the provisions of Rule 15.1.1.3 above, any person may have in his possession within a race track enclosure, any chemical or biological substance for use on his own person, provided that, if such chemical substance is prohibited from being dispensed by any Federal law or law of this State without a prescription, he is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to him.

15.1.1.5 Notwithstanding the provisions of Rule 15.1.1.3 above, any person may have in his possession within any race track enclosure, any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to himself, provided that he has notified the Stewards: (1) of his possession of such device; (2) of the size of such device; and (3) of the chemical substance to be administered by such device and has obtained written permission for possession and use from the Stewards.

15.1.2 Definitions:

The following terms and words used in these Rules are defined as:

15.1.2.1 Hypodermic Injection shall mean any injection into or under the skin or mucous, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection and intraocular (intraconjunctival) injection.

15.1.2.2 Foreign Substances shall mean all substances except those which exist naturally in the untreated horse at normal physiological concentration, and shall also include substances foreign to a horse at levels that cause interference with testing procedures.

15.1.2.3 Veterinarian shall mean a veterinary practitioner authorized to practice at the race track.

15.1.2.4 Horse includes all horses registered for racing under the jurisdiction of the Commission and for the purposes of these Rules shall mean stallion, colt, gelding, ridgling, filly or mare.

15.1.2.5 Chemist shall mean the Commission's chemist.

15.1.2.6 Test Sample shall mean any body substance including, but not limited to, blood or urine taken from a horse under the supervision of the Commission's Veterinarian and in such manner as prescribed by the Commission for the purpose of analysis.

15.1.2.7 Race Day shall mean the 24-hour period prior to the scheduled post time for the first race.

15.1.3 Foreign Substances:

15.1.3.1 No horse participating in a race shall carry in its body any foreign substance except as provided in Rule 15.1.3.1.3:

15.1.3.1.1 A finding by the chemist that a foreign substance is present in the test sample shall be prima facie evidence that such foreign substance was administered and carried in the body of the horse while participating in a race. Such a finding shall also be taken as prima facie evidence that the Trainer and agents responsible for the care or custody of the horse has/have been negligent in the handling or care of the horse.

15.1.3.1.2 A finding by the chemist of a foreign substance or an approved substance used in violation of Rule 15.1 in any test sample of a horse participating in a race shall result in the horse being disqualified from purse money or other awards, except for purposes of pari-mutuel wagering which shall in no way be affected.

15.1.3.1.3 A foreign substance of accepted therapeutic value may be administered as prescribed by a Veterinarian when test levels and guidelines for its use have been established by the Veterinary-Chemist Advisory Committee of the National Association of State Racing Commissioners and approved by the Commission. Aminocaproic acid may be present in a horse's body while it is participating in a race, subject to all the provisions of these Rules.

15.1.3.1.4 The only approved non-steroidal anti-inflammatory drug (NSAID) that may be present in a horse's body while it is participating in a race is phenylbutazone/oxyphenbutazone in the level stated in 15.1.3.1.5 or 15.1.3.1.6. The presence of any other NSAID at any test level is forbidden.

Revised: 1/6/92.

15.1.3.1.5 The test level of phenylbutazone under this Rule shall not be in excess of two point five (2.5) micrograms (mcg) per milliliter (ml) of plasma without penalties in the following format:

Micrograms per milliliter	Penalties
0 to 2.5	No action
2.6 to 4.9	First Offense \$250.00 <u>\$500.00</u> fine
2.6 to 4.9	Second Offense within 365 days \$500.00 <u>\$1,000.00</u> fine
2.6 to 4.9	Third Offense within 365 days \$500.00 <u>\$1,000.00</u> fine and/or Suspension and/or Loss of Purse
5.0 and Over	Fine, Suspension, Loss of Purse

15.1.3.1.6 The test level for oxphenbutazone under this Rule shall not be in excess of two (2) micrograms (mcg) per milliliter (ml) of plasma.

Micrograms per milliliter	Penalties
0 to 2.5	No action
2.6 to 4.9	First Offense \$250.00 <u>\$500.00</u> fine
2.6 to 4.9	Second Offense within 365 days \$500.00 <u>\$1,000.00</u> fine
2.6 to 4.9	Third Offense within 365 days \$500.00 <u>\$1,000.00</u> fine and/or Suspension and/or Loss of Purse
5.0 and Over	Fine, Suspension, Loss of Purse

15.1.3.1.7 No bleeder medication otherwise permissible under this Rule may be administered to a horse within one hour of the scheduled post time of the horse's race. The administration of salix to a horse on race day will be governed by Rule 15.2.

15.1.3.1.8 If a horse is to receive one or more bleeder medications, aminocaproic acid and/or salix, the trainer shall declare said use at the time of entry.

15.1.3.1.9 A veterinarian administering bleeder medications shall report the administration of such medications on the same form that is used to report the administration of salix.

15.1.3.1.10 The race program shall denote what medication(s) have been administered to a horse in the race and the past performance lines in the program, if any, shall denote any medications administered to said horse in those races.

15.1.3.1.11 Any horse running on permissible bleeder medication under these Rules shall remain on the medication for a period of not less than sixty (60) days before being permitted to race without the permissible bleeder medication.

15.1.3.1.12 The detection of permissible bleeder medications (salix and/or aminocaproic acid) in a horse following the running of a race which was not declared or reported to the Stewards, may result in the disqualification of the horse and other disciplinary action imposed upon the trainer and administering veterinarian. Conversely, the absence of bleeder medication following the running of a race in which was declared and reported by a trainer and/or veterinarian, may result in the disqualification of the horse and other disciplinary action imposed upon the trainer and administering veterinarian.

15.1.3.1.13 Erythropietin (EPO)

A finding by the official chemist that the antibody of Erythropietin (EPO) was present in a post-race test specimen of a horse shall be promptly reported in writing to the Stewards. The Stewards shall notify the owner and trainer of the positive test result for Erythropietin antibodies. The Stewards shall notify the Commission Veterinarian of the name of the horse for placement on the Veterinarian's List, pursuant to Rule 5.32, 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 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.

Notwithstanding any inconsistent provision of these Rules, a horse shall not be subject to disqualification from the race and from any share of the purse in the race and the trainer of the horse shall not be subject to application of trainer's responsibility based on the finding by the laboratory that the antibody of Erythropietin was present in the sample taken from that horse.

15.2 Bleeder Medication:

15.2.1 Notwithstanding anything in the Rules of Racing to the contrary, the Stewards may permit the administration of Furosemide (Salix) to control epistaxis (bleeding) to horses under the following conditions:

15.2.1.1 A horse which, during a race or workout at a duly licensed race track in this State or within the first hour immediately following such a race or workout, is observed by the Commission's Veterinarian or the Stewards to be shedding blood from one or both nostrils or is found to have bled internally. (An endoscopic examination of the horse, in order to confirm bleeding, may be performed by the practicing veterinarian in the presence of the Commission's Veterinarian at the detention barn within one (1) hour of workout or race.)

15.2.1.2 A horse which has been certified as a bleeder in another jurisdiction may be placed on the bleeder list provided that the other jurisdiction qualified it as a bleeder using criteria satisfactory to the Commission's Veterinarian and the Stewards. It shall be the absolute responsibility of the Trainer to report bleeders from other jurisdictions to the Commission's Veterinarian or Stewards on official forms from that State prior to entry.

15.2.1.3 The Commission's Veterinarian shall be responsible to maintain an up-to-date "bleeder" list and the list shall be available in the Racing Secretary's office.

15.2.1.4 A horse in the Bleeder Program shall be required to be brought to an area designated by the Licensee and approved by the Commission not later than three and one-half (3 ½) hours before post time for the race in which it is entered. During the 3 ½ hour period, the horse shall be under the care and custody of a groom or caretaker appointed by the Trainer. The approved Furosemide medication may be administered by a licensed practicing veterinarian within three (3) hours before post time. The practicing veterinarian shall make a report to the Stewards of the treatment on forms provided by the Stewards on the same day of treatment.

15.2.1.5 (Deleted.)

15.2.1.6 A horse which bled for the first time shall not be permitted to run for a period of ten (10) calendar days. A horse which bleeds a second time shall not be permitted to run for thirty (30) calendar days. A horse which bleeds a third time shall not be permitted to run for ninety (90) days. A horse which bleeds a fourth time shall be barred from further racing in the State of Delaware, except that if a horse's fourth bleeding incident occurs within one year of the first bleeding incident, then the horse shall not be barred but shall not be permitted to run for one year. If a horse has bled three times but at least twelve months have passed since the last bleeding incident, then if the horse bleeds for a fourth time, the horse shall not be permitted to run for twelve (12) months, and any further bleeding incidents will prevent the horse from racing for another twelve (12) month period. A positive endoscopic examination shall be classed as a first time bleeder.

Revised: 6/19/92.

15.2.1.7 Dosage. Furosemide (Salix) shall be administered intravenously, or intramuscularly as permitted under Rule 15.02.1.8, to horses in the Bleeder Program by a licensed practicing veterinarian, who will administer not more than 500 milligrams nor less than 100 milligrams, subject to the following conditions:

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

15.2.1.9 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 (lasix) in oral or intramuscular form, except that the stewards may approve intramuscular administration for a horse based on written documentation from the Commission veterinarian and the trainer's veterinarian.

15.2.1.10 Post-Race Quantification. 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 (Salix) per milliliter of plasma in conjunction with a urine that has a specific gravity of 1.010 or lower.

15.2.1.10.1 If post-race analysis indicates that the specific gravity of a horse's urine is less than 1.010 and the concentration of furosemide in the blood plasma is greater than 100 nanograms per milliliter, the stewards shall take the following action (for each horse):

15.2.1.10.1.1 If such overage is the first violation of this rule for this horse, the trainer and/or attending veterinarian shall be issued a warning and be required to participate in a review of all pertinent Commission rules and subsequent penalties at a time scheduled by the stewards. If the trainer wishes to contest the overage, the trainer shall follow a specific procedure under which all of the following conditions must be met:

15.2.1.10.1.2 the horse in question must report to the detention barn four hours prior to post time.

15.2.1.10.1.3 the same handler/groom must stay with the horse at all times.

15.2.1.10.1.4 a blood sample shall be taken by the Commission veterinarian before the administration of furosemide.

15.2.1.10.1.5 the trainer's veterinarian must administer furosemide at a dosage not to exceed 500 milligrams.

15.2.1.10.1.6 the Commission veterinarian must witness the administration of furosemide.

15.2.1.10.1.7 the horse must return to the detention barn after the race for the taking of post-race blood and urine testing by the Commission veterinarian or assistant, no matter how the horse finishes in the race.

15.2.1.10.2 If, after all of the above conditions are met, the post race tests reveal that the specific gravity of the horse's urine is again below 1.010 and the concentration of furosemide in the blood plasma is greater than 100 nanograms per milliliter of plasma, and the blood sample taken in the detention barn before the administration of furosemide tests negative for furosemide, the horse will be placed on an "exempt" list and the first offense will be removed, provided further that any horse on the "exempt" list will be required to have all future pre-race Salix treatments administered pursuant to the procedure set forth in Rules 15.2.1.9.1.2 through 15.2.1.9.1.7 set forth above. Any horse that is placed on the "exempt" list and later fails to follow the pre-race procedure for Salix administration set forth in Rules 15.2.1.9.1.2 through 15.2.1.9.1.7 above will be removed from the "exempt" list, disqualified from the race, and subject to the penalties in this Rule for subsequent offenses.

15.2.1.10.3 If such overage is the second violation of this rule for the same horse, the trainer and/or attending veterinarian shall be fined a minimum of \$100.00 and a maximum of \$500.00.

15.2.1.10.4 If such overage is the third violation of this rule for the same horse, the trainer and/or attending veterinarian shall be issued a minimum suspension of seven (7) days and a maximum suspension of fifteen (15) days and shall be fined a minimum of \$100.00 and a maximum of \$1,000.00, and the stewards in their discretion may order loss of purse as an additional penalty.

15.2.1.10.5 If such overage is the fourth violation for the same horse, the trainer and/or attending veterinarian shall be issued a suspension of fifteen (15) days to thirty (30) days, and shall be fined \$250.00 to \$1,000.00, and the stewards will order loss of purse as a mandatory penalty.

15.3 Responsibility for Prohibited Administration:

15.3.1 Any person found to have administered or authorized a medication, drug or substance which caused or could have caused a violation of Rules 15.1 or 15.2, or caused, participated or attempted to participate in any way in such administration, shall be subject to disciplinary action.

15.3.2 The registered Trainer of a horse found to have been administered a medication, drug or substance in violation of Rules 15.1 or 15.2 shall bear the burden of proof to show freedom from negligence in the exercise of a high degree of care in safeguarding such horse from being tampered with and, failing to prove such freedom from negligence (or reliance on the professional ability of a licensed Veterinarian), shall be subject to disciplinary action.

15.3.3 The Assistant Trainer, groom, stable watchman or any other person having the immediate care and custody of a horse found to have been administered a medication, drug or substance in violation of Rules 15.1 or 15.2, if found negligent in guarding or protecting such horse from being tampered with, shall be subject to disciplinary action.

15.3.4 A licensed Veterinarian shall be responsible for any medication, drug or substance that he administers, prescribes or causes to be administered by his direction on a horse. If found to have made an error in type or quantity of same administered and if in reliance upon the correctness thereof a Trainer races such treated horse in violation of Rules 15.1 and 15.2, such licensed Veterinarian shall be subject to disciplinary action.

15.4 Reports of Administration:

15.4.1 Before a licensed Veterinarian administers or prescribes any drug or restricted substance for a horse, he shall ascertain by reasonable inquiry whether the horse has been entered to race at any track and, if the horse has been entered, he shall not administer or prescribe any drug or restricted substance within the time or manner restricted by these Rules.

15.4.2 If, however, an emergency exists involving the life or health of the horse, he may proceed to treat or prescribe for the horse but shall report the matter as promptly as practicable to the Commission Veterinarian and Stewards.

15.4.3 Any Veterinarian practicing at any Delaware race track shall file a daily report with the Stewards and the Commission Veterinarian as to any medication prescribed or administered or professional service performed. This report shall be filed in person or postmarked within a period of forty-eight (48) hours from the time of treatment. Detection of any unreported medication, drug or substance by the Commission's Chemist in a pre-race or post-race test may be grounds for disciplinary action against such Veterinarian.

15.4.4 Such daily reports shall accurately reflect the identity of the horse treated, diagnosis, time of treatment, type and dosage of medication, drug or substance and method of administration.

15.4.5 Such daily reports shall remain confidential except that the Commission's Veterinarian may compile general data therefrom to assist the Commission in formulating policies or rules and the Stewards may review the same in investigating a possible violation of these rules. See Rule 11.2.8 respecting a public list of horses declared to race on medication.

15.4.6 When making an entry, it shall be the duty of the Trainer or his representative, as required by Rule 11.02(d), to disclose and declare to the Racing Secretary or his representative whether said horse will race on any medication permitted by these rules.

15.5 Report Prior to Race of Cessation or Reduction of Medication:

15.5.1 For any horse entered to run in a race, a timely report of the elimination or reduction since its last race in the level of Phenylbutazone and/or similar medications administered to it at the time of such last race shall be made to the Commission's Veterinarian by the horse's Owner, Trainer, attending Veterinarian and/or any other person having supervision over, or custody of, such horse.

Violation of this Rule will constitute grounds for disciplinary action.

15.6 Bettors' Safeguard:

15.6.1 To help protect against inconsistent performances, a horse which last raced after having been administered Phenylbutazone and/or similar medication shall not be permitted to race without having been administered the same or similar medication at a comparable level, unless the Commission's Veterinarian grants his prior, express approval that such horse may race notwithstanding that the medication program to which it was subjected at the time of its last race has subsequently been eliminated or reduced.

15.6.2 Violation of any aspect of this Rule by an Owner, Trainer, attending Veterinarian or any other person having supervision or custody of the horse will constitute grounds for disciplinary action as provided by these Rules.

15.7 Commission List:

15.7.1 As a guide to Owners, Trainers and Veterinarians, the Commission may from time to time publish a list of medications, shown by brand and generic names, specifically prohibited for racing. Such list shall not be considered exclusive and medications shown thereon shall be considered only as among those, along with others not so listed, prohibited by general classification under Rule 15.1.

15.8 Detention Area:

15.8.1 Each Licensee may provide and maintain on its grounds a fenced enclosure sufficient in size and facilities to accommodate stabling of horses temporarily detained for the taking of sample specimens for chemical testing; such detention area shall be under the supervision and control of the Commission's Veterinarian.

15.9 Horses to be Tested:

15.9.1 The Stewards may at any time order the taking of a blood, urine, or saliva specimen for testing from any horse entered. Any Owner or Trainer may at any time request that a specimen be taken from a horse he owns or trains by Commission's Veterinarian and be tested by Commission's Chemist, provided the costs of such testing are borne by the Owner or Trainer requesting such test.

15.9.1.1 Every effort shall be made to collect both blood and urine samples from all horses selected for post-race testing. Blood samples shall be tested;

15.9.1.1.1 For determination of those drugs with regulatory thresholds;

15.9.1.1.2 For those drugs not detectable in urine; and

15.9.1.1.3 To determine, when possible, whether a positive test result is consistent with the documented administration of the drug.

15.10 Procedure for Taking Specimens:

15.10.1 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, groom, or hotwalker of horses to be tested shall be admitted to the detention area without permission of the Commission veterinarian.

15.10.1.1 Blood samples must be collected at a consistent time, preferable not later than one hour post-race.

15.10.2 Stable equipment other than equipment necessary for washing and cooling out a horse shall be prohibited in the detention area.

15.10.2.1 Buckets and water shall be furnished by the Commission veterinarian.

15.10.2.2 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.

15.10.2.3 A licensed veterinarian shall attend a horse in the detention area only in the presence of the Commission veterinarian.

15.10.3 One of the following persons shall be present and witness the taking of the specimen from a horse and so signify in writing:

15.10.3.1 The owner;

15.10.3.2 The responsible trainer who, in the case of a claimed horse, shall be the person in whose name the horse raced; or

15.10.3.3 A stable representative designated by such owner or trainer.

15.10.4 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 Rule 15.10.3.

15.10.5 Blood vacutainers will also be supplied by the Commission laboratory in sealed packages as received from the manufacturer.

15.10.6 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.

15.10.6.1 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.

15.10.6.2 The Commission Veterinarian shall:

15.10.6.2.1 Identify the horse from which the specimen was taken.

15.10.6.2.2 Document the race and day, verified by the witness; and

15.10.6.2.3 Place the detached portions of the identification tags in sealed envelope for delivery only to the stewards.

15.10.6.3 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.

15.10.6.3.1 Laboratories conducting post-race sample analysis must have access to LC/MS instrumentation for screening and/or confirmation purposes.

15.10.6.4 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.

15.10.6.5 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.

15.10.6.6 When the Commission chemist has reported that the "primary" sample delivered contains no prohibited drug, the "secondary" sample shall be properly disposed.

15.10.6.7 If after a horse remains a reasonable time in the detention area and a specimen can not be taken from the horse, the Commission veterinarian may permit the horse to be returned to its barn and usual surroundings for the taking of a specimen under the supervision of the Commission veterinarian.

15.10.6.8 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.

15.10.6.9 Two (2) blood samples shall be collected in ~~twenty (20) milliliters vacutainers~~ two (2) DTRC approved sample receptacles, one for the "primary" and one for the "secondary" sample.

15.10.6.10 In the event of an initial finding of a prohibited drug or in violation of these Rules, the Commission chemist shall notify the Commission, both orally and in writing, and an oral 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.

15.10.6.10.1 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.

15.10.6.10.2 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.

15.10.6.11 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.

15.10.6.11.1 A Commission representative and the owner, trainer, or other responsible person or a representative of the persons notified under these Rules 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.

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

15.10.6.11.3 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 to the horse in question, it shall be concluded that there is insubstantial evidence upon which to charge anyone with a violation.

15.10.6.12 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 the possible after sealing, in a manner so as not to reveal the identity of a horse from which the sample was taken.

15.10.6.13 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.

15.11 Commission Chemist:

15.11.1 The Commission's Chemist, who shall be a member of the Association of Official Racing Chemists, shall conduct tests on specimens provided him in order to detect and identify prohibited substances therein and report on such in such a manner, and according to such procedures, as the Commission from time to time may approve and/or prescribe.

15.12 Prohibited Practices

15.12.1 The following conduct shall be prohibited for all licensees:

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

15.12.1.2 The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the regulatory body that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

15.12.1.3 The practice, administration, or application of Intermittent Hypoxic Treatment by External Device which is performed on the premises of a facility under the jurisdiction of the Commission, and which may endanger the health, safety, and welfare of the horse or endanger the safety of the jockey, or the use of which may adversely affect the integrity of racing. Intermittent Hypoxic Treatment is the administration of hypoxic gas to a horse for the purpose of enhancing aerobic metabolism by simulating training at a high altitude.

15.12.1.4 The use of a nasogastric tube (a tube longer than six inches, inserted in a horse's nostril) for the administration of any substance within the 24-hour period considered raceday is forbidden without prior permission of the Commission.

15.12.1.5 The possession and/or use of blood doping agents, including but not limited to ~~the following list, on the premises of a facility under the jurisdiction of the Commission is forbidden~~ Erythropoietin (EPO); Darbepoietin (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. The possession and/or use of such substances on the premises of a facility under the jurisdiction of the Commission is strictly forbidden.

15.13 Testing for Prohibited Substances that Abnormally Enhance Oxygenation

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

15.13.1.1 Once a horse is entered to race;

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

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

15.13.1.4 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; and

15.13.1.5 Any horse that expires, consistent with DTRC Rules 10.7.1 through and inclusive of 10.7.6.

15.13.2 Two blood samples shall be collected in DTRC approved sample receptacles; one is the primary sample; and the other is the secondary sample.

15.13.3 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 DTRC approved laboratory for a confirmation test.

15.13.4 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 DTRC Rule 15.10.6.10.1 through and inclusive of DTRC Rule 15.1.6.13.

15.13.5 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

15.13.6 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:

15.13.7 In the absence of extraordinary circumstances, a penalty of \$5,000 and/or a 10 year suspension, forfeiture of the purse money and assessment for cost of the drug testing may be imposed.

15.14 Shock Wave Therapy/Instruments

15.14.1 No person may possess on a licensee's race track an instrument used for shock wave therapy.

15.14.2 No horse may be treated with any form of shock wave therapy within ten (10) days of racing (the day of the treatment shall be considered the first day in counting the number of days).

15.14.3 The administration of shock wave therapy may only be performed by a licensed veterinarian. A veterinarian using shock wave therapy shall document and report each treatment on his daily medication report.

15.14.4 A Trainer or Veterinarian who has been found to have violated any of the above provisions of this Rule shall be subject to appropriate disciplinary action by the stewards and/or Commission including but not limited to a maximum suspension of ninety (90) days.

15.44 Blood Gas Testing

15.44.1 The Commission may use a testing machine that measures carbon dioxide levels in pre-race samples using a Base Excess testing protocol. A trainer whose horse is selected for blood gas testing and fails to report for the test will be penalized as if there was a positive test result.

15.44.2 Under this protocol, the prohibitive Base Excess concentrations are as follows: Base Excess level of 10.0 mmol/l (mEq/l) or higher for non-furosemide (Salix) treated horses and Base Excess (BE) level of 12.0 mmol/l (mEq/l) or higher for furosemide (Salix) treated horse. 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 non-furosemide (Salix) treated horse and Base Excess (BE) level of 12.4 mmol/l (mEq/l) or higher for furosemide (Salix) treated horse, in order for a violation to be reported under this Rule.

15.44.3 A licensee has the right, pursuant to the quarantine procedure outlined at 15.15, or by such other 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.

15.45 Quarantine Procedure for Carbon Dioxide Positive Tests (Prerace Or Postrace)

15.45.1 Detention/Quarantine of Horses: The owner or trainer must request use of the quarantine procedure by sending written notice to the Stewards 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/her own expense, to make the necessary scheduling arrangements with the Stewards and the Commission Veterinarian. The horse in question will be quarantined on the grounds for periodic blood gas testing by the DTRC (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.

15.45.2 Procedure: The owner or trainer will be responsible for providing the DTRC 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.

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

15.45.3.1 The owner or trainer will be required to deposit sufficient funds with the DTRC Stewards 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.

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

15.45.3.3 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.

15.45 ~~16.3.4~~ 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.

15.45 ~~16.3.5~~ All activity of the quarantined horse is observed, documented, and recorded by security officers for the track and the DTRC.

15.45 ~~16.3.6~~ 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 DTRC officials as specified by the owner or trainer. Samples of the feed will be retained by the DTRC designated official.

15.45 ~~16.3.7~~ 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 DTRC designated official.

15.45 ~~16.3.8~~ Every trainer, groom, or caretaker is subject to continuous observation and may be searched when with the horse for contraband.

15.45 ~~16.3.9~~ 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.

15.45 ~~16.3.10~~ 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.

15.45 ~~16.3.11~~ A sick horse must only be determined ill by the Commission's 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.

15.45 ~~16.3.12~~ Stalls for the quarantine of horses are designated by the Stewards of the DTRC, in cooperation with the racetrack.

15.45 ~~16.3.13~~ Trainers can restrict water based on previous pre-race preparation schedules.

15.45 ~~16.3.14~~ 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.

15.45 ~~16.3.15~~ Blood samples will be taken from the quarantined horse by the Commission Veterinarian, as he or she 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/her 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.

15.45 ~~16.3.16~~ At the conclusion of the quarantine period, the party requesting the quarantine will be provided timely notice of the test results from the DTRC. The trainer may present such evidence at a hearing before the Stewards if he or she attempts to prove that the horse has a naturally high carbon dioxide level.

- 1 DE Reg. 508 (11/01/97)**
- 1 DE Reg. 1184 (02/01/98)**
- 3 DE Reg. 754 (12/01/99)**
- 4 DE Reg. 179 (07/01/00)**
- 4 DE Reg. 1131 (01/01/01)**
- 4 DE Reg. 1821 (05/01/01)**
- 6 DE Reg. 641 (11/01/02)**
- 6 DE Reg. 1205 (03/01/03)**
- 7 DE Reg. 766 (12/01/03)**
- 7 DE Reg. 1540 (05/01/04)**
- 8 DE Reg. 1699 (06/01/05)**

10 DE Reg. 546 (09/01/06)

10 DE Reg. 1581 (04/01/07) (Final)