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Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators SIDDOWAY, Stennett, Hill and,
Representatives LOERTSCHER, Monks, Smith

FROM: Katharine Gerrity - Deputy Division Manager

DATE: November 08, 2018

SUBJECT: Temporary Rule

IDAPA 11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses - Adoption of Temporary Rule - Docket No. 11-0411-1802

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Katharine Gerrity at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
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**IDAPA 11 – IDAHO STATE POLICE:
IDAHO STATE RACING COMMISSION**

**11.04.11 – RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

DOCKET NO. 11-0411-1802

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 17, 2018. Unless this temporary rule is rejected and not extended by concurrent resolution of the legislature, or it is rescinded by the Racing Commission prior to the following expiration date, the temporary rule shall be null, void and of no force and effect on and after September 30, 2020.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-2506, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The Racing Industry seeks to have sample defined as “A blood, urine, hair, saliva, or other specimen taken from a horse at the direction of the Commission Veterinarian.”

The industry and Commission are also requesting a section be added to address (OCT) Out-of-Competition testing. The addition of Out-of-Competition Testing will be of great importance when horsemen are entering into trial races for qualification into the higher purse and series races.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The adoption of this rule confers a benefit to the industry and the betting public as a tool for the Commission to use in preventing the use any illegal substances in racehorses.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

The Commission is including a Supplemental License fee to help absorb the increased costs associated with the addition of hair testing. This fee is being promulgated under Docket No. 11-0403-1801 that is published in the Bulletin.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Ardie Noyes (208) 884-7080.

Dated this 17th day of September, 2018.

Ardie Noyes
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ISP/Racing Commission
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0411-1802
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

- 01. Bleeder List.** A list maintained by the commission veterinarian with all horses that have demonstrated external evidence of exercise induced pulmonary hemorrhage from one (1) or both nostrils during or after a race or workout. (3-29-10)
- 02. Calendar Year.** A calendar year beginning January 1 and ending December 31. (3-29-10)
- 03. Colt.** An intact male horse under five (5) years of age. (3-29-10)
- 04. Commission Veterinarian.** A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (3-29-10)
- 05. Filly.** A female horse that has not reached five (5) years of age. (3-29-10)
- 06. Gelding.** An altered male horse of any age. (3-29-10)
- 07. Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male five (5) years old or older. (3-29-10)
- 08. Hypodermics.** Any hypodermic instrument, hypodermic syringe or hypodermic hollow needle used for injection of substances into the body of a horse. (3-29-10)
- 09. Inspection of Horses.** A veterinarian inspection to assess the racing condition of every horse entered in an official race. (3-29-10)
- 10. Mare.** A female horse that has reached the age of five (5) years. (3-29-10)
- 11. Medication Report Form.** A form signed by the treating veterinarian disclosing the identity of the horse, the permitted drug being used with dosage or procedure administered, the time administered and the name of the trainer. (3-29-10)
- 12. Mitigating Circumstances.** An event that constitutes detail to support a penalty to be waived or less harsh. (3-29-10)
- 13. Needle and Syringe.** See Hypodermics - Subsection 010.08 of this rule. (3-29-10)
- 14. Owner.** The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. (3-29-10)
- 15. Paddock.** An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (3-29-10)
- 16. Penalties.** For this chapter, a penalty issued against an individual(s) found guilty of medication and drug violations. (3-29-10)
- 17. Primary Laboratory.** A laboratory approved by the Racing Commission to conduct testing and official analysis of post-race samples. (3-25-16)

18. **Prohibited Substances.** Medication and drugs that should not be administered to a horse. (3-29-10)
19. **Racing Association.** Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (3-29-10)
20. **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (3-29-10)
21. **Racing Condition.** The physical ability to race of a horse determined by the commission veterinarian. (3-29-10)
22. **Referee Laboratory.** Laboratory approved by the Racing Commission to conduct split sample testing. (3-25-16)
23. **Sample.** A blood, ~~or urine,~~ sample saliva, hair, or any other acceptable specimen taken from a horse at the direction of the commission veterinarian. ~~(3-29-10)~~(9-17-18)T
24. **Split Sample.** A blood, ~~or urine,~~ sample saliva, hair, or any other acceptable specimen taken from a horse that is greater than the minimum sample requirement. ~~(3-29-10)~~(9-17-18)T
25. **Suspension.** Punishment for violation of the Racing Commission rules. The offender is denied privileges of the racing facilities for a specified period of time. (3-29-10)
26. **Test Area.** A ~~barn~~ secured testing area provided by a racing association used for taking ~~specimens samples of urine,~~ blood, ~~or other bodily substances or tissues~~ urine, saliva, hair, or any other acceptable specimen for testing. ~~(3-29-10)~~(9-17-18)T
27. **Trainer.** The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (3-29-10)
28. **Veterinarian's List.** A list of all horses which are ineligible to be entered in any race due to a physical condition. (3-29-10)
29. **Veterinarians' Reports.** The Medication Report Form completed by every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission. (3-29-10)
30. **Veterinarian.** Practicing Private practitioner employed by owners and trainers on an individual case or contract basis. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

110. TESTING.

01. **Testing.** The official winning horse and any other horse ordered by the Racing Commission or the Stewards must be taken to the testing area to have a blood, ~~or urine,~~ sample saliva, hair, or any other acceptable specimen taken at the direction of the Commission Veterinarian. ~~(3-29-10)~~(9-17-18)T
02. **Examination.** Examination of the race winner or other designated horses must be made by the Commission Veterinarian or his assistant. (3-29-10)
03. **Specimens.** All specimens must be collected by the Commission Veterinarian or his assistant. (3-29-10)

111. OUT-OF-COMPETITION TESTING.

01. Racing Commission Authority to Request Test. The Racing Commission may request an out-of-competition testing (OCT) sample be collected and screened for any violation of Section 600 of these rules.

(9-17-18)T

02. Conditions for Racing Commission Request. The Racing Commission may request any owner or trainer currently licensed by the Racing Commission to allow for an OCT sample be collected under any of the following conditions:

(9-17-18)T

a. The horse is stabled on the grounds of a licensed race meet.

(9-17-18)T

b. The horse is nominated or eligible for a stake or handicap race.

(9-17-18)T

c. The registration certificate of the horse is currently on file with the racing association. If the horse selected is not currently stabled on the grounds, the owner or trainer shall present the horse to the test barn at a time designated by the commission.

(9-17-18)T

03. Horse Selection. Horses will be selected for OCT by a Racing Commission veterinarian, steward, or executive secretary.

(9-17-18)T

04. Sample Collection and Split Samples. Sample collection and split samples will be done in accordance with Sections 110 through 180 of these rules.

(9-17-18)T

05. Refusal to Submit. Refusal to submit to an OCT sample request will result in penalties consistent with Sections 501, 990, and 995 of these rules.

(9-17-18)T

06. Qualified Horse. If a horse that qualifies under Subsection 111.02 of this rule is selected for testing and is not stabled at a race meet licensed by the Racing Commission, the Racing Commission may approve a regulatory veterinarian from another jurisdiction to collect and submit the sample providing the process complies with Sections 110 through 180 of these rules.

(9-17-18)T

07. Penalties. Penalties for a report of a positive laboratory finding in violation of this Section 111 will be consistent with Sections 501, 990, and 995 of these rules.

(9-17-18)T

~~114~~. -- 114. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

120. TRAINER PRESENT.

01. Present During Testing. The Trainer, or his authorized representative, must be present in the testing area when a blood, urine, saliva, hair, or any other acceptable specimen is taken from a horse.

~~(3-25-16)~~(9-17-18)T

02. Tag Signed. The sample tag must be signed by the Trainer or his representative, as witness to the taking of the specimen.

(3-29-10)

03. Refusal. Willful failure to be present at or a refusal to allow the taking of such specimen, or any act or threat to impede or prevent or otherwise interfere therewith, subjects the person or persons doing so to immediate suspension by the Stewards and the matter will be referred to the Racing Commission for such further penalty as may be determined.

(3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

150. STORAGE AND SHIPMENT OF SPLIT SAMPLES.

Split samples obtained in accordance with Subsection 140.03 of these rules, must be secured and made available for further testing in accordance with the following procedures: (3-29-10)

01. Secured. A split sample must be secured under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. (3-29-10)

02. Transferred to a Freezer of Samples. Split samples must then be transferred to a freezer or other approved storage container, at a secure location approved by the Racing Commission. ~~(3-29-10)~~ (9-17-18)T

(BREAK IN CONTINUITY OF SECTIONS)

291. HAIR TESTING.

No hair sample taken from a horse shall contain any prohibited drug or other non-approved medication. (9-17-18)T

01. Racing Commission Authority. The Racing Commission is authorized to collect and submit hair samples for testing in quarter horses and mixed breed races. Hair samples shall be collected consistent with Section 111 of these rules. (9-17-18)T

02. Presence of Prohibited Substances. The presence of any prohibited substances that appears in a pre or post-race sample including, but not limited to, Clenbuterol, Zilpaterol, and Ractopamine in Quarter Horse and mixed breed races will constitute a violation. Any report of prohibited or non-permitted medication in a hair sample will result in the horse being placed on a stewards list for sixty (60) days. A horse must provide a negative hair test prior to removal from list. (9-17-18)T

03. Positive Finding for Prohibited Substance. Samples collected for out-of-competition testing in Quarter Horses and mixed breed horses that result in a positive finding for a prohibited substance as listed in Section 600 of these rules will be reported to the Board of Stewards and considered a violation. The presence of Clenbuterol in an out-of-competition test in a Quarter Horse will result in the horse being placed on the official veterinarians list for a minimum of sixty (60) days or until a sample is submitted and is reported as negative for the presence of Clenbuterol. If, at the owner's request, a sample is submitted for screening for removal from the official veterinarians list, the owner is responsible for the cost of the testing. (9-17-18)T

04. Hair Sample. If a horse is selected for hair testing and the mane is less than four and one-half inches (4 1/2") in length, the Racing Commission may elect to collect a hair sample using the tail. (9-17-18)T

~~291.2.~~ -- 299. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

600. NON-APPROVED MEDICATION.

01. Administration by Owner or Trainer. A horse owner or trainer found to have administered any non-approved medication substances is in violation of these rules. ~~(3-29-10)~~ (9-17-18)T

02. Clenbuterol. A finding of Clenbuterol is prohibited in blood, urine, saliva, hair, or any other acceptable specimen. (9-17-18)T