

**DEPARTMENT OF AGRICULTURE**  
**THOROUGHBRED RACING COMMISSION**  
Statutory Authority: 3 Delaware Code, Section 10103(c) (3 Del.C. §10103(c))  
3 DE Admin. Code 1001

**PROPOSED**

**PUBLIC NOTICE**

**1001 Thoroughbred Racing Rules and Regulations**

**Summary**

The Thoroughbred Racing Commission proposes to amend its Regulations adopted in accordance with Title 3, Chapter 101. The purpose of the amended regulations is to amend rule 14 to add new rules 14.19.1 relating to multiple disqualifications and 14.20 relating to dead heats and rule 15 to add new rule 15.22 relating to the adoption by reference of the ARCI Veterinary Practices Rule, rule 15.23 relating to the adoption by reference of the ARCI Prohibited Practices Rule and rule 15.24 relating to the adoption by reference of the ARCI Out of Competition Testing Rule and to delete the reference to stanozolol in rule 15.17.1.1. Other regulations issued by the Thoroughbred Racing Commission are not affected by this proposal. The Thoroughbred Racing Commission is issuing these proposed regulations in accordance with Title 3 of the Delaware Code. This notice is issued pursuant to the requirements of Chapter 101 of Title 29 of the Delaware Code.

**Comments**

A copy of the proposed regulations is being published in the March 1, 2017 edition of the Delaware *Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Thoroughbred Racing Commission at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before March 31, 2017. Written materials submitted will be available for inspection at the above address.

**Adoption of Proposed Regulation**

On or after March 31, 2017, following review of the public comment, the Thoroughbred Racing Commission will determine whether to amend its regulations by adopting the proposed rules or make additional changes because of the public comments received.

**1001 Thoroughbred Racing Rules and Regulations**

**1.0 Definitions and Interpretations**

In the context of these Rules of Racing, the following words and phrases shall be construed as having the following special meanings:

**“Added money”**: Cash, exclusive of trophy or other award, added by the Licensee to stakes fee paid by subscribers to form the total purse for a stakes race.

**“Age”**: The number of years since a horse was foaled, reckoned as if such horse were foaled on January 1 of the year in which such horse was foaled.

**“Arrears”**: All sums due by any permittee or registrant as reflected by his account with the Licensee or the Horsemen’s Bookkeeper, including subscriptions, jockey fees, forfeitures, and any default incident to these rules.



have been particularly named, previous to starting, to all the riders in the race by one of the Stewards or their representative.

- 14.14 Refusal of Fence: If a horse refuses any fence or hurdle in a jumping race and it can be proved to the satisfaction of the Stewards that he has been led or driven over it by any of the bystanders, or has been given a lead over it by anyone not riding in the race, such horse shall be disqualified.
- 14.15 Fouls: A leading horse, when clear, is entitled to any part of the track. If a leading horse or any other horse in a race swerves or is ridden to either side so as to interfere with or intimidate or impede any other horse or Jockey, it is a foul. If a Jockey strikes another horse or Jockey, it is a foul. If, in the opinion of the Stewards, a foul alters the finish of a race, any offending horse may be disqualified by the Stewards.
- 14.16 Stewards to Determine Foul Riding: Every Jockey shall be responsible for making his best effort to control and guide his mount in such a way as not to cause a foul. The Stewards shall take cognizance of riding which results in a foul, irrespective of whether an objection is lodged and, if in the opinion of the Stewards a foul is committed as a result of a Jockey not making his best effort to control and guide his mount to avoid a foul, whether intentionally or through carelessness or incompetence, such Jockey may be penalized at the discretion of the Stewards.
- 14.17 Horses to be Ridden Out: Every horse in every race must be ridden so as to win or finish as near as possible to first and demonstrate the best and fastest performance of which it is capable at the time. No horse shall be eased up without adequate cause, even if it has no apparent chance to earn a portion of the purse money. A Jockey who unnecessarily causes a horse to shorten stride may be penalized at the discretion of the Stewards. Stewards shall take cognizance of marked reversal of form of all horses and shall conduct inquiries of the registered Owner, registered Trainer and all other persons connected with such horse suspected of unformful racing and, if the Stewards find that such horse was deliberately restrained or impeded in any way by any means so as not to win or finish as near as possible to first, any person found to have contributed to such circumstances may be penalized at the discretion of the Stewards.
- 14.18 Use of Whips, Other Means of Altering Performance:
- 14.18.1 Whips are to be used uniformly and the Stewards shall take cognizance of unusual use or non-use of a whip by a Jockey. No appliance, electrical or mechanical, other than the ordinary whip, shall be used to affect the speed of a horse in a race or workout. No sponge or other object may be used to interfere with the respiratory system of a horse. Use or non-use of ordinary racing equipment shall be consistent and any change thereof must be approved by the Stewards.
- 14.18.2 Indiscriminate, excessive, abusive or brutal use of an ordinary whip on a horse, as determined by the Stewards in their sole discretion, is prohibited.
- 14.19 Official Order of Finish as to Pari-Mutuel Payoff: If foul riding or other cause for disqualification of any horse in a race is brought to the attention of the Stewards by the time the last Jockey in a race has weighed in, the Stewards shall rule on the extent of disqualification, if any, and shall determine the placing of the horses in the official order of finish for purposes of pari-mutuel payoff. After the Stewards have caused the "Official" sign to be flashed on the infield result board, the order of finish so declared official shall be final and no right of appeal therefrom shall exist insofar as the pari-mutuel payoff is concerned. Any subsequent change in the order of finish or award of purse money after the result of a race has been so declared official by the Stewards shall in no way affect the pari-mutuel payoff.
- 14.19.1 Multiple Disqualifications
- 14.19.1.1 Should the stewards determine that there is more than one incident of interference in a race where disqualification is warranted, the stewards shall deal with the incidents in the order in which the incident occurs during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered.
- 14.20 Dead Heats
- 14.20.1 When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in

dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

14.20.2 In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

14.20.3 When a dead heat is run for second place and objection is made to the winner of the race, and sustained, the horses which ran a dead heat shall be deemed to have run a dead heat for first place.

14.20.4 If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the stewards.

**13 DE Reg. 1296 (04/01/10)**

**19 DE Reg. 1010 (05/01/16)**

## **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.

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.

15.16.3.16 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.

#### 15.17 Androgenic-Anabolic Steroids

15.17.1 The Commission hereby adopts by reference the Androgenic-Anabolic Steroids Rule, including the plasma thresholds, of the Association of Racing Commissioners International (ARCI) (ARCI-011-020, Part I, December 2013). If there is any inconsistency between the Commission's regulations and the ARCI Androgenic-Anabolic Steroids Rule, the provisions of the Commission's regulations shall prevail.

15.17.1.1 With respect to nandrolone, boldenone, ~~stanozolol~~ and testosterone in fillies, mares, and geldings (testosterone and nandrolone in intact male horse samples are treated separately in 15.17.1.2):

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

15.17.1.1.2 Any test result at plasma concentration levels at or above 100 picograms per milliliter will be considered a positive test result.

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

##### 15.17.1.2.1 Nandrolone

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

15.17.1.2.1.2 Any test result at and above plasma concentrations of 500 picograms per milliliter will be considered a positive test.

##### 15.17.1.2.2 Testosterone

15.17.1.2.2.1 Any test result at plasma concentrations below 2000 picograms per milliliter will be considered a negative test.

15.17.1.2.2.2 Any test result at and above plasma concentrations of 2000 picograms per milliliter will be considered a positive test.

15.17.2 All other Androgenic - Anabolic Steroids are prohibited in racing horses.

15.17.3 Post-race samples collected from intact males shall be identified to the laboratory.

15.17.4 Any horse to which one of these Androgenic - Anabolic Steroids has been administered in order to assist in the recovery from an illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in plasma. After the concentration has fallen below the designated threshold for the administered Androgenic - Anabolic Steroids, the horse is eligible to be removed from the list.

15.18 ARCI Uniform Classification Guidelines for Foreign Substances. The Commission hereby adopts by reference the ARCI Uniform Classification Guidelines for Foreign Substances, Version 7.0, January 2014. If there is any inconsistency between the Commission's regulations and the ARCI Uniform Classification Guidelines for Foreign Substances, the provisions of the Commission's regulations shall prevail.

15.19 ARCI Multiple Medications Violations Penalties. The Commission hereby adopts by reference the Association of Racing Commissioners International (ARCI-011-020, Part B.(13), December 2013) Multiple Medications Violations Penalties. If there is any inconsistency between the Commission's

regulations and the ARCI Multiple Medications Violations Penalties, the provisions of the Commission's regulations shall prevail.

**15.20 ARCI NSAID Stacking Rule**

15.20.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Non-Steroidal Anti-Inflammatory Drug Stacking rule (ARCI-011-020, Part E.(1)(C)), version 5.9 approved December 12, 2014.

**15.21 ARCI Cobalt Rule.**

15.21.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Cobalt rule (ARCI Drug Testing and Practices Committee, Recommendations 1 and 2), approved April 23, 2015.

**15.22 ARCI Veterinary Practices Rule.**

15.22.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Veterinary Practices rule (ARCI-011-010, Model Rules v7.0, 2017). If there is any inconsistency between the Commission's regulations and the ARCI Veterinary Practices rule, the provisions of the Commission's regulations shall prevail.

**15.23 ARCI Prohibited Practices Rule.**

15.23.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Prohibited Practices rule including Annex I Prohibited Substances (ARCI-011-015, Model Rules v7.0, January 2017). If there is any inconsistency between the Commission's regulations and the ARCI Prohibited Practices rule, the provisions of the Commission's regulations shall prevail.

**15.24 ARCI Out of Competition Testing Rule.**

15.24.1 The Commission hereby adopts by reference the Association of Racing Commissioners International Out of Competition Testing rule (ARCI-022-010, Model Rules v7.0, 2017). If there is any inconsistency between the Commission's regulations and the ARCI Out of Competition Testing rule, the provisions of the Commission's regulations shall prevail.

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)

11 DE Reg. 1374 (04/01/08)

12 DE Reg. 1514 (06/01/09)

14 DE Reg. 1047 (04/01/11)

15 DE Reg. 520 (10/01/11)

15 DE Reg. 1584 (05/01/12)

16 DE Reg. 1265 (06/01/13)

17 DE Reg. 1061 (05/01/14)

18 DE Reg. 961 (06/01/15)

19 DE Reg. 137 (08/01/15)

**16.0 Pari-Mutuel Wagering**

16.1 Place of Conducting Pari-Mutuel Betting: Any person or entity holding a license therefore issued by the Commission may make, conduct and sell pools by the use of pari-mutuel machines or totalizators for

**DEPARTMENT OF AGRICULTURE  
THOROUGHBRED RACING COMMISSION**

Statutory Authority: 29 Delaware Code, Section 4815(b)(4)c. (29 Del.C. §4815(b)(4)c.)  
3 DE Admin. Code 1002

**PROPOSED**

**PUBLIC NOTICE**

**1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations**

The Delaware Jockey's Health and Welfare Benefit Board, in accordance with 29 Del.C. §4815(b)(4)c. has proposed changes to its rules and regulations by amending existing Rule 2.1.1, Rule 2.1.2.1, Rule 2.1.2.2 and Rule 2.2 and adding new Rule 2.1.1.3 and Rule 2.4. Other regulations issued by the Delaware Jockey's Health and Welfare Benefit Board are not affected by this proposal.

**Comments**

A copy of the proposed regulations is being published in the March 1, 2017 edition of the Delaware *Register of Regulations*. A copy is also on file in the office of the Thoroughbred Racing Commission, 777 Delaware Park Boulevard, Wilmington, Delaware 19804 and is available for inspection during regular office hours. Copies are also published online at the *Register of Regulations* website: [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml).

Interested parties may offer written comments on the proposed regulations or submit written suggestions, data, briefs or other materials to the Delaware Jockey's Health and Welfare Benefit Board at the above address as to whether these proposed regulations should be adopted, rejected or modified. Pursuant to 29 Del.C. §10118(a), public comments must be received on or before March 31, 2017. Written materials submitted will be available for inspection at the above address.

**Adoption of Proposed Regulation**

On or after March 31, 2017, following review of the public comment, the Delaware Jockey's Health and Welfare Benefit Board will determine whether to amend its regulations by adopting the proposed new rules.

**1002 Delaware Jockeys' Health and Welfare Benefit Board Regulations**

**1.0 Introduction**

- 1.1 These regulations are authorized pursuant to 3 Del.C. §10171 and 29 Del.C. ~~§4815(b)(3)e~~ 4815(b)(4)c. which established a Delaware Jockeys' Health and Welfare Benefit Board (hereinafter "the Board") and Delaware Jockeys' Health and Welfare Benefit Fund (hereinafter "the Fund").
- 1.2 The Delaware Jockeys' Health and Welfare Benefit Board shall consist of 1 member of the Delaware Thoroughbred Racing Commission, 1 member from the licensed agent under Chapter 1010 of **Title 3** or Chapter 4 of **Title 28**, 1 member of the Delaware Horsemen's Association, 1 representative from the organization that represents the majority of the jockeys who are licensed and ride regularly in Delaware, and 2 jockeys who are licensed and ride regularly in Delaware. The Chairman of the Thoroughbred Racing Commission shall serve as an *ex officio* member, and vote on matters in the event of a tie vote on any issue. All members shall be appointed by the Thoroughbred Racing Commission, and shall serve a two year term.
- 1.3 The Board shall elect a Chairperson from among the appointed members of the Board. The Chairperson shall serve a two year term and may serve consecutive terms. The Chairperson shall be the presiding officer at all meetings of the Board.
- 1.4 The Board shall administer the Fund pursuant to these regulations and other reasonable criteria for benefit eligibility.

- 1.5 A special fund of the State has been established and will be known as the "Delaware Jockeys' Health and Welfare Benefit Fund." The Fund shall consist of the proceeds transferred from the licensed video lottery agent and the purse account pursuant to 29 Del.C. ~~§4815(b)(3)~~ 4815(b)(4)c. The proceeds transferred to the Fund will be maintained in an account established in the Department of Agriculture.
- 1.6 The Fund will be invested by the State Treasurer consistent with the investment policies established by the Cash Management Policy Board. All income earned by the Fund will be reinvested in the Delaware Jockeys' Health and Welfare Benefit Fund.
- 1.7 The Board shall use the Fund to provide for jockeys who regularly ride in Delaware, health benefits for active, disabled and retired jockeys. The Board may also expend usual and customary expenses for administrative purposes from the Fund.
- 1.8 The Thoroughbred Racing Commission's Administrator of Racing will provide administrative support to the Board and keep minutes of all the meetings of the Board and preserve all records of the Board. The Board's Office will be considered as part of the Office of the Thoroughbred Racing Commission.
- 1.9 The Board can propose to amend these regulations by an affirmative vote of the majority of the Board.

## 2.0 Eligibility Criteria for Health Coverage

- 2.1 The Board will pay from the Fund for health coverage for active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.
  - 2.1.1 An Active Delaware Jockey, who regularly rides in Delaware, is eligible for health insurance coverage under the fund, if the jockey had ~~fifty (50)~~ one hundred (100) mounts in a Delaware Park season at Delaware Park; and
    - 2.1.1.1 If the jockey's Delaware Park mounts are less than 100 in a Delaware Park season, then 50% or more of that jockey's total mounts during the regular Delaware Park season must be at Delaware Park.
    - 2.1.1.2 If the jockey's Delaware Park mounts are 100 or more in a Delaware Park season, the jockey is eligible for health insurance coverage, regardless of the amount of total mounts at other tracks.
    - 2.1.1.3 An Active Delaware Jockey who did not ride the qualifying number of mounts during a Delaware Park season due to circumstances beyond the control of the jockey may petition the Delaware Jockey's Health and Welfare Benefit Board for eligibility. The Delaware Jockey's Health and Welfare Benefit Board shall review the petition, and if in the discretion of the Board the circumstances warrant, may grant eligibility.
  - 2.1.2 A Retired Delaware Jockey is eligible for health insurance coverage under the Fund if:
    - 2.1.2.1 The Jockey was receiving health insurance coverage as a retired jockey provided by the Delaware ~~Thoroughbred Racing Commission's Jockey's Health and Welfare Benefit Board~~ health insurance plan ~~with the Jockey's Guild on January 1, 2006~~ December 31, 2016; or
    - 2.1.2.2 The Jockey rode a minimum of 100 mounts at Delaware Park during the regular Delaware Park season for at least ~~seven~~ ten years.
    - 2.1.2.3 The Jockey is not licensed as a jockey in any racing jurisdiction.
  - 2.1.3 A disabled Delaware Jockey's spouse and dependents qualify for health benefits if the disabled jockey meets all of the following requirements:
    - 2.1.3.1 The jockey was an active participant in the Delaware Jockeys' Health and Welfare Fund benefit program at the time of the on-track accident that resulted in total and permanent disability; and
    - 2.1.3.2 Be deemed permanently disabled by Social Security and qualify for Medicare as a result of an injury sustained during the regular Delaware Park season on the premises of Delaware Park, and arising in the course of his/her participation as a licensed jockey.
- 2.2 An active jockey, a retired jockey and/or the an eligible disabled jockey's family who meets the eligibility requirements of either an active Delaware jockey, a retired Delaware jockey, or a disabled Delaware jockey's family will be entitled to health coverage for one year beginning on the first day of



~~the month after it can be determined~~ calendar year following the year the eligibility requirements ~~has~~ have been met, ~~and continuing until December 31<sup>st</sup> of the next calendar year.~~

2.3 The Board will pay from the Fund for health coverage for the dependents of active jockeys who regularly ride in Delaware, eligible retired jockeys, and disabled Delaware jockeys.

2.3.1 Eligibility for coverage for dependents will be determined by the company providing the insurance coverage.

2.4 The Fund shall provide benefits secondary to Medicare or Medicaid for any member or an enrolled dependent of a member, who is eligible for Medicare or Medicaid health benefits.

9 DE Reg. 1749 (05/01/06)

13 DE Reg. 1536 (06/01/10)

15 DE Reg. 60 (07/01/11)

15 DE Reg. 1585 (05/01/12)

19 DE Reg. 33 (07/01/15)

20 DE Reg. 682 (03/01/17) (Prop.)

