



November 29, 2023

Dear New Mexico Racing Commission:

The Board of Trustees of the New Mexico Horse Breeders Association would like to have clarified a few of the definitions and rule changes that will be discussed and voted upon at this Thursday's Rules hearing.

1. On page 2, 15.2.1.7 P. (19) the definition of a Purse now includes language about the extra breed money that did not used to be there. One of our Trustees, Mark Brown, was told that this definition change was requested by the Jockey's Guild to make sure that the Jockeys were being paid the percentage they earn on the full purse and that it would not exclude the extra funds added by a breed organization. I did call and verify that with the Jockey's Guild attorney yesterday.

Are there any other reasons for this change? Will this have any effect on how the breed funds are being handled?

2. On page 13, 15.2.3.8 C. . Racing Secretary: under (3) (b) Allocation of stalls: the language has been changed from "NM Breds would have preference over horses of comparable quality" to "Allocation of stalls shall be determined by each association's screening process. Preference may be given to stables that are balanced and consist of NM Breds.

This would clearly give racetracks permission to not allocate stalls to NM Breds to the detriment of our program. Can you clarify why you would wish to change this rule?

3. On Page 14, C. Racing Secretary: under (3) (f) The racing secretary shall not offer any races or accept entries for two-year-olds in New Mexico prior to June 1st.

This would eliminate the New Mexican Spring Futurity and New Mexican Spring Fling at Sunland Park and the NM Breeders QH Futurity at SunRay Park. There are training races and futurity trials at Ruidoso Downs that would also be effected.

Below is a link to an article that shows that racing and training 2-year-olds reduces their risk of injury. We would appreciate it if you would read this article before making a decision about this rule change.

<https://paulickreport.com/horse-care-category/bramlage-racing-and-training-2-year-olds-reduces-their-risk-of-injury-heres-why/>

Sincerely,

From The NMHBA Board of Trustees

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The purpose of the proposed amendments is to add the definition of “catastrophic injury”, update the definitions of “maiden” and “purse” recognizing industry-standard resources and add the definition of “substitute steward” as means of ensuring race meets can proceed in the event a third steward is unavailable.

15.2.1.7 DEFINITIONS:

C. Definitions beginning with the letter “c”:

(1) “Carryover” refers to non-distributed monies, which are retained and added to a corresponding pool in accordance with these rules.

(2) “Catastrophic injury” means an equine injury resulting in death or euthanasia of a horse within 72 hours of injury.

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

(4) “Classified handicap” is a free handicap race in which contestants are assigned weights to be carried by the handicapper for the purpose of equaling their respective chances of winning.

(5) “Commission” means the state racing commission.

(6) “Conditions” are qualifications, which determine a horse's eligibility to be entered in a race.

(7) “Contest” is a competitive event on which pari-mutuel wagering is conducted.

(8) “Contestant” is an individual participant in a contest.

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

(10) “Course” is the track over which horses race.

M. Definitions beginning with the letter “m”:

(1) “Maiden” is a horse, which shows in ~~[the daily racing form or the American quarter horse chart book]~~ Equibase and RTO Incompass system as never having won a race at a recognized meeting. A maiden, which has been disqualified after finishing first in a race, is still a maiden.

(2) “Maiden race” is a race restricted to maidens.

(3) “Match race” is a race between two horses under conditions agreed to by their owners.

(4) “Meeting” is the specified period and dates each year during which an association is authorized to conduct racing by approval of the commission. For purposes of this rule, the meeting begins on the first date prior to actual racing that entries are accepted by the racing secretary. Entries shall be accepted no sooner than seven days before racing commences.

(5) “Minus pool” occurs when the payout is in excess of the net pool.

(6) “Month” is a calendar month.

(7) “Mutuel field” refers to two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

P. Definitions beginning with the letter “p”:

(1) “Paddock” is an enclosure in which contestants scheduled to compete in a contest are confined prior to racing.

(2) “Pari-mutuel system” is the manual, electromechanical, or computerized system and all software (including the totalisator, account betting system and offsite betting equipment) that is used to record bets and transmit wagering data.

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

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

(5) **“Payout”** is the amount of money payable to winning wagers.

(6) **“Performance”** is a schedule of races run consecutively as one program.

(7) **“Person”** is one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustee, receiver, syndicate, or any other legal entity.

(8) **“Positive test”** means the result of a test, conducted as provided in these rules on an official sample, which indicates the presence of any prohibited substance.

(9) **“Post position”** is the pre-assigned position from which a horse will leave the starting gate.

(10) **“Post time”** is the scheduled starting time for a contest.

(11) **“Prima facie evidence”** is evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue.

(12) **“Private barn”** is a barn and real property owned or leased by a trainer in which stalls are provided for races at a licensed New Mexico racetrack and who have direct access to a New Mexico racetrack.

(13) **“Profit”** is the net pool after deduction of the amount bet on the winners.

(14) **“Profit split”** is a division of profit amongst separate winning betting interests or winning betting combinations resulting in two or more payout prices.

(15) **“Program Trainer”** is a licensed trainer who solely for the purpose of the official race program, is identified as the trainer of the horse that is actually under the control of, and trained by, another person who may or may not hold a current trainer’s license in any jurisdiction.

(16) **“Prohibited substance”** is any drug, chemical, or other substance which, when administered to a horse can create a change in the normal physiological performance of the horse's racing ability, including

(a) stimulants or depressants or other substances as defined by the association of racing commissioners international; or

(b) that may interfere with testing procedures; or

(c) that is a therapeutic medication present in excess of established acceptable levels; or

(d) that is present in the horse in excess of levels that could occur naturally; or

(e) that is a substance specified by rule that is not allowed to appear in an out of competition or hair sample.

(17) **“Program”** is the published listing of all contests and contestants for a specific performance.

(18) **“Protest”** is a written complaint alleging that a horse is or was ineligible to race.

(19) **“Purse”** is the total ~~cash~~ dollar amount, including but not limited to extra breed money, for which a race is contested whether paid at the time of the race or at a future date.

S. Definitions beginning with the letter “s”:

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

(2) **“Scratch time”** is the deadline set by the association for withdrawal of entries from a scheduled performance.

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

(4) **“Single price pool”** is an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.

(5) **“Sponsor added money”** is added to a race in return for name and/or advertising recognition and is not added money.

(6) **“Stable name”** is a name used other than the actual legal name of an owner or lessee and registered with the commission.

(7) **“Stakes race”** is a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stakes race.

(8) **“Starter”** refers to a horse, which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

(9) **“Starter allowance”** is a race in which a horse establishes eligibility by starting for a claimed price pursuant to the conditions of the race.

(10) **“Steeplechase race”** is a contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.

(11) **“Steward”** is a duly appointed racing official with powers and duties specified by the act and these rules.

(12) **“Substitute Steward”** is a licensed or certified racing official pursuant to 60-1A-12, duly approved by the commission and appointed by the executive director or the presiding steward, with the powers and duties specified by the act and these rules.

The purpose of the proposed amendments is to provide flexibility for the commissioner meeting attendance and to fix typographical errors and cross-references.

15.2.1.8 COMMISSION:

A. Purpose:

(1) The New Mexico racing commission created by the act, Section 60-1A-4, New Mexico Statutes, 1978, Annotated, is charged with implementing, administering and enforcing the act. It is the intent of the commission that the rules of the commission be interpreted in the best interests of the public and the jurisdiction.

(2) Through these rules, the commission intends to encourage agriculture, the horse breeding industry, the horse training industry, tourism and employment opportunities in this jurisdiction related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing.

B. General authority:

(1) The commission shall regulate each race meeting and the persons who participate in each race meeting.

(2) To the extent permitted by the Act the commission may delegate to the agency director and the stewards all powers and duties necessary to fully implement the purposes of the Act.

C. Membership and meetings:

(1) The state racing commission shall consist of five members, no more than three of who shall be members of the same political party. They shall be appointed by the governor, and no less than three of them shall be practical breeders of racehorses within the state. Each member shall be an actual resident of New Mexico and of such character and reputation as to promote public confidence in the administration of racing affairs.

(2) The commission shall meet at the call of the chair, as requested by a majority of the members or as otherwise provided by statute. Notice of the meetings must be given and the meetings must be conducted in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA, 1978.

(3) If it is difficult or impossible for a racing commission member to attend a meeting of the racing commissioners, that member may participate in the meeting **virtually or by telephone.** ~~[The telephone shall be a speakerphone that allows all commission members and the public to hear all speakers at the meeting.]~~

(4) A majority of the commission constitutes a quorum. When a quorum is present, a motion before the commission is carried by an affirmative vote of the majority of the commissioners present at the meeting.

(5) A commission member may not act in the name of the commission on any matter without a majority vote of a quorum of the commission.

J. Issuance of license to conduct a race meeting and allocation of race dates:

(6) All applicants for an initial license to conduct horse racing or a horse race meeting in the state of New Mexico shall submit the following information to the commission in the form of a verified application, including an original and six copies.

(a) The name of the applicant and indicate whether it is an individual, firm, association, partnership, corporation or other legal entity.

(b) The names, residences, and nationalities of individual applicants or members of a partnership, association or firm.

(c) If the applicant is a corporation, the following information must be furnished, and if the applicant is a parent or subsidiary of another corporation, the following information must be furnished for each entity.

(i) The year in which the corporation was organized, its form of organization and the name of the state under the laws of which it was organized. Articles of incorporation and bylaws must also be submitted.

(ii) The classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than 15 days prior to the filing of the application.

- (xx) State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.
- (xxi) Describe the efforts to be made to ~~[insure]~~ensure the security safety and comfort of patrons and license holders.
- (xxii) State the availability of fire protection and adequacy of law enforcement and police protection.
- (xxiii) State the parking lot capacity and describe the construction and type of parking facilities.
- (xxiv) State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.
- (xxv) Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.
- (xxvi) State the arrangements for food and drink concessions indicating the names and addresses of concessionaires and the terms of the concession contracts.
- (xxvii) Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.
- (xxviii) Indicate by actual dates the racing days requested by applicant.
- (xxix) Indicate the kind of racing to be conducted.
- (xxx) Describe the proposed ~~[pari-mutuel]~~pari-mutuel operation in general and indicate in particular the terms of the ~~[pari-mutuel]~~pari-mutuel ticket sales.
- (xxxi) Describe climatic conditions prevalent during the proposed racing season.
- (xxxii) Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.
- (xxxiii) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.
- (xxxiv) Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.
- (xxxv) Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.
- (xxxvi) Describe a strategic plan to be proactive in an effort to prevent contagious equine diseases, and biosecurity measures to be put in place in the event of an outbreak including permanent quarantine facilities.
- (7) A new complete primary application as required in ~~[Paragraph (5) of Subsection I]~~ paragraph (6) of Subsection J of 15.2.1.8 NMAC is also required if any of the following events occur:

The purposes of the proposed amendments are to abridge the rule, expand and define reasons for summary suspension furthering goals of disciplinary processes, provide stewards direction and options when conducting hearings and providing notices of hearings and rulings, modify time frame for payment of fines, and relocate a portion to a more applicable rule section.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

~~[A. Purpose of chapter: This chapter contains the rules of procedure for stewards' hearings and commission proceedings.~~

~~B.]~~**A. Proceedings before the stewards:**

(2) Complaints.

(a) On their own motion or on receipt of a complaint from ~~an~~ [a racing] official or other person regarding the actions of a licensee, the stewards may conduct an inquiry and disciplinary hearing regarding the licensee's actions.

(b) A complaint made by someone other than ~~the stewards~~ [a racing official] must be in writing and filed with the stewards not later than 72 hours after the action that is the subject of the complaint.

(c) In case of a notice from the state of New Mexico human services department that a licensee is in non-compliance with the Parental Responsibility Act, the licensee shall be notified by the board of stewards. Thereafter the licensee shall have 30 days to provide documentation of compliance to the board of stewards and failure to do so will result in the suspension of the licensee's license.

(3) Summary suspension.

(a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, integrity or welfare of the horseracing industry, the stewards may summarily suspend the license pending a hearing.

(b) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the 10th day after the license was summarily suspended. The licensee may waive their right to a hearing on the summary suspension within the 10-day limit.

(c) ~~[The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings.]~~ At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

~~[(d) If a positive test arises in a trial race, the horse is eligible for entry into a race for which the trial was conducted unless that positive test requires the horse to be placed on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC. The purse for both the trial and the race for which the trial was conducted will be held until the case has been adjudicated.]~~

(4) Notice.

(a) Except as provided by these rules regarding summary suspension, jockey riding infractions and trial races, the stewards or a racing commission designee shall provide written notice, at least 10 days before the hearing, to a person who is the subject of a disciplinary hearing. The person may waive their right to 10 days notice by executing a written waiver.

(b) Notice given under this section must include: a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes or rules involved; a short, plain description of the alleged conduct that has given rise to the disciplinary hearing; the possible penalties that may be imposed.

(c) ~~[If possible, the]~~ The stewards or the racing commission designee ~~[shall]~~ may hand deliver, certified mail to the licensee's last provided address or by email the written notice of the disciplinary hearing to the person who is the subject of the hearing. ~~[If hand delivery is not possible, the stewards or a racing commission designee shall forthwith mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail.]~~ If the disciplinary hearing involves an alleged medication violation that could result

in the disqualification of a horse, the stewards or a racing commission designee shall provide notice of the hearing to the owner of the horse in the manner provided by this subsection.

(d) Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards. The stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

(6) Evidence.

(a) Each witness at a disciplinary hearing conducted by the stewards must be sworn by the presiding steward.

(b) The stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. The stewards may admit hearsay evidence if the stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards. Hearsay evidence alone is insufficient basis for a ruling.

(c) The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence that the licensee has violated or is responsible for a violation of the act or a commission rule.

(d) The stewards ~~[shall]~~ may ~~[make a tape recording of]~~ record a disciplinary or summary suspension hearing and make a copy of the recording available on request, at the expense of the requesting person.

(7) Ruling.

(a) The issues at a disciplinary hearing shall be decided by a majority vote of the stewards. If the vote is not unanimous, the dissenting steward shall include with the record of the hearing a written statement of the reasons for the dissent.

(b) A ruling by the stewards must be on a form prescribed by the commission and include: the full name, license type, license number, and applicant ID number of the person who is the subject of the hearing; a statement of the charges against the person, including a reference to the specific section of the Racing Act or rules of the commission that the licensee is found to have violated; the date of the hearing and the date the ruling was issued; the penalty imposed; any changes in the order of finish or purse distribution; other information required by the commission.

(c) A ruling must be signed by a majority of the stewards.

(d) ~~[If possible, the]~~ The stewards or their designee ~~[shall]~~ may hand deliver, certified mail to licensee's last provided address or by email a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the stewards shall mail the ruling to the person's last known address, as found in the commission's licensing files, by regular mail. ~~If the ruling includes the disqualification of a horse, the stewards shall provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, and the appropriate past performance service.~~

(e) At the time the stewards inform a person who is the subject of the proceeding of the ruling, the stewards shall inform the person of the person's right to appeal the ruling to the commission and apply for a stay.

(f) All fines imposed by the stewards shall be paid to the commission within ~~[30]~~14 days after the ruling is issued, unless otherwise ordered.

~~[C.]~~B. Proceedings by the commission:

[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 3/15/2001; A, 3/31/2003; A, 5/30/2003; A, 6/15/2004; A, 6/30/2009; A, 9/15/2009; A, 12/1/2010; A, 5/1/2013; A, 1/1/2014; A, 3/16/2015; A, 5/1/2015; A, 9/16/2015; A, 3/15/2016; A/E, 6/28/2016; A, 9/16/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 4/9/2019; A, 10/11/2022]

The purpose of the amendments is to ensure presence of sufficient medical personnel consistent with HISA requirements, photo finish pictures are not destroyed in the event the commission needs to review after a race meet has ended, hold associations accountable for surface conditions, fix typographical errors, and improve confidence in industry by displaying the race replays being reviewed by BOS in response to inquiry or objection.

15.2.2.8 ASSOCIATIONS:

E. Facilities and equipment: facilities for patrons and licensees:

- (1) An association shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.
- (2) An association shall provide and maintain adequate restroom facilities for the patrons and licensees.
- (3) An association shall provide an adequate supply of free drinking water.
- (4) An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.
- (5) During a race performance, the association shall provide a first aid room equipped with at least two beds and other appropriate equipment; the services of at least one physician, nurse practitioner or certified emergency medical technician, with at least one person being adequately trained in diagnosing and assessing concussions.
- (6) The association shall ensure that no fewer than two racing veterinarians are on duty at the association during all live racing.
- (7) The association shall ensure that a minimum of one racing veterinarian shall be on duty during all training hours.
- ~~(6)~~(8) An association shall provide two properly equipped advance life support ambulances, ready for immediate duty and equipped for transport at any time the racetrack is open for racing or ~~exercising~~ training hours. ~~The~~ Each ambulance shall be staffed with one certified paramedic or an intermediate emergency medical technician, ~~[(as long as physician is on the grounds)]~~ nurse practitioner or physician assistant. The other staff will be certified EMTs. If the ambulance is being used to transport an individual, the association may not conduct a race until a properly equipped and staffed ambulance is in place, or a physician is on duty.
- ~~(7)~~(9) Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.
- ~~(8)~~(10) The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.
- ~~(9)~~(11) An association shall provide adequate office space for the use of the stewards and other commission personnel as required by the commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the commission. An association shall provide ~~[a designated steward read only]~~ the board of stewards, state investigator and official veterinarian access to the ~~[incompass rto]~~ Incompass RTO system as prescribed by the racing office as well as e-mail notification for all entry clerk overrides for horses on stewards', veterinarian's, paddock judge's, bleeders' and starter's lists.
- ~~(10)~~(12) An association shall promptly post commission notices in places that can be easily viewed by patrons and licensees.
- ~~(11)~~(13) An association shall ensure that all concessions provide prompt and efficient service to the public at all race meets or simulcast performances. The associations shall specifically ensure that concessions have adequate staff and inventory to provide prompt and efficient service to the public.
- (14) An association must designate on the association grounds an area to be utilized as a helipad for emergency purposes.

G. Audio and visual equipment:

(1) An association shall provide and maintain in good working order a communication system between the: stewards' stand; racing office; tote room; jockeys' room; paddock; test barn; starting gate; weigh in scale; video camera locations; clocker's stand; racing veterinarian; track announcer; location of the ambulances (equine and human); other locations and persons designated by the commission.

(2) An association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

(3) An association shall provide two electronic ~~[photofinish]~~ photo finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. The location and operation of the ~~[photofinish]~~ photo finish devices must be approved by the commission before its first use in a race. The association shall promptly post a photograph of each ~~[photofinish]~~ photo finish for win, place or show in an area accessible to the public. The association shall ensure that the ~~[photofinish]~~ photo finish devices are calibrated before the first day of each race meeting and at other times as required by the commission. On request by the commission, the association shall provide, without cost, a print from a negative of a ~~[photofinish]~~ photo finish to the commission. ~~[Photofinish]~~ Photo finish ~~[negatives]~~ prints of each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(4) An association shall provide a videotaping system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the stewards' stand. The location and construction of video towers must be approved by the commission.

(5) A camera and a timer, designated by the commission, shall be at the starting gate and shall videotape and show to the public the pre-race loading of all horses into the starting gate and shall continue to videotape them until the field is dispatched by the starter.

(6) One camera, designated by the commission, shall videotape the apparent winner of each race from the finish line until the horse has returned, the jockey has dismounted and the equipment has been removed from the horse.

(7) The stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race.

(8) Races run on an oval track must be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

(9) An association shall, upon request, provide to the commission, without cost, a copy of a videotape of a race.

(10) Videotapes recorded prior to, during and following each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(11) An association shall provide a viewing room in which, on approval by the stewards, an owner, trainer, jockey or other interested individual may view a videotape recording of a race.

(12) ~~[Following]~~ In any race in which there is an inquiry or objection, the association shall display to the public on designated monitors the videotaped ~~[replays of the]~~ incident in question ~~[which were utilized by]~~ at the time the stewards ~~[in]~~ are making their decision.

H. Racetrack:

(1) The association shall ensure the surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses. The association shall also ensure an adequate drainage system is in place for the racetrack surface.

(2) ~~[Prior to the first race meeting at an association racetrack, a licensed surveyor shall provide to the commission a certified report of the grade and measurement of the distances to be run.]~~ The association shall provide adequate equipment and personnel to maintain the track surface in a safe exercise and racing condition. The association shall provide backup equipment for maintaining the racetrack surface.

(3) ~~[Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.]~~ The association shall provide the commission a soil analysis report conducted by an independent and qualified individual or entity, approved by the commission or its agent, within two weeks prior to

the start of live racing and midway through the race meet. The commission shall have the discretion to require the associations provide additional soil analysis reports upon request.

(4) ~~[The surveyor's report must be approved by the commission prior to the first race day of the meeting.]~~ Analysis for soil surfaces shall include the following elements:

(a) determine and document the association's configurations and geometries, including: geometry and slopes of straights and turns and slopes at each distance marker pole and ensure these distances are correct;

(b) the accuracy of distances from the finish line to the marker poles; and

(c) cushion and base geometries; base inspection, including windrowing and base survey, surface survey, ground penetrating radar, or other method; mechanical properties of racing using a biomechanical surface tester shall be determined and documented; surface material samples of the association's tracks shall be analyzed for material composition; and corrective measures to address issues pursuant to these rules.

(5) ~~[An association shall provide an adequate drainage system for the racetrack.]~~ Pre-meet inspection shall be performed on all surfaces prior to the start of each race meet with sufficient time allotted to facilitate corrections of any issues prior to racing. For race meets spanning periods with significant weather variation, inspections shall be performed seasonally prior to anticipated weather changes.

(6) ~~[An association shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The association shall provide back up equipment for maintaining the track surface.]~~ Prior to the first race meet at an association racetrack, a licensed surveyor shall provide a certified report of the grade and measurement of the distances to be run to the commission.

(a) Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.

(b) The surveyor's report must be approved by the commission prior to the first race day of the race meet.

(7) ~~[An association that conducts races on a turf track shall maintain an adequate stockpile of growing medium; provide a system capable of adequately watering the entire turf course evenly.]~~ Daily measurements shall be taken at the beginning of all daily training and racing sessions and taken at each ¼ mile marker pole at locations 5 and 15 feet outside the inside rail. The association shall maintain a log of such measurements which the commission shall have the authority to review.

(a) For dirt surfaces, such daily measurements shall include: moisture content, cushion depth, and weather conditions and precipitation at 15-minute intervals from a national or local weather service.

(b) Daily surface maintenance logs should include equipment used, direction of travel, speed of all maintenance vehicles and water administration.

(c) Documentation of the source, timing, quantity, and method of all additions to the surfaces shall be submitted to the commission by the association.

(8) Any horse that suffers a training or race related injury shall not leave the association grounds until it has been properly documented and inspected by a state investigator or any commission appointed designee.

L. Lighting:

(1) An association shall provide lighting for the racetrack and the patron facilities that are adequate to ensure the safety and security of the patrons, licensees and horses. Lighting to ensure the proper operation of the videotape and ~~photo finish~~ [photo finish] equipment must be approved by the commission.

(2) An association shall provide adequate additional lighting in the stable area as required by the commission.

(3) If an association conducts racing at night, the association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

R. Fire prevention:

(1) An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.

(2) Not later than three days before the first day of a race meeting, an association shall deliver to the commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plan of corrections. The certification or plan must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.

- (3) No person shall:
- (a) smoke in stalls, feed rooms or under ~~shed-row~~ [shedrow];
 - (b) burn open fires or oil and gas lamps in the stable area;
 - (c) use or leave unattended, any electrical appliance that is plugged-in to an electrical outlet, that is not in safe working order and does not meet the manufacturer's recommendations;
 - (d) use extension cords that are not approved to meet OSHA standards, nor should extension cords be fastened with staples, hung from nails or suspended by wire;
 - (e) use worn, cracked, frayed or otherwise damaged electric cords or cables;
 - (f) permit horses to come within reach of electrical outlets or cords;
 - (g) store flammable materials such as cleaning fluids or solvents in the stable area;
- or
- (h) lock a stall which is occupied by a horse.

[15.2.2.8 NMAC - Rp, 15 NMAC 2.2.8, 3/15/2001; A, 8/30/2001; A, 11/14/2002; A, 8/30/2007; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/2018; A, 4/20/2021; A, 5/24/2022]

The purpose of these amendments is to recognize all positions that should be deemed racing officials, to clarify who can fill in as a substitute steward in the event three (3) stewards are not available for a race meet, clarify stall allocation being subject to association screening and preference processes, ensure the associations provide sufficient number of veterinarians and to fix typographical errors.

15.2.3.8 FLAT RACING OFFICIALS GENERAL PROVISIONS:

A. Racing Officials: Officials at a race meeting include the following: assistant racing secretary; assistant starters; chief of security; director of racing, or similar position; claims clerk; clerk of scales; clocker; digital or lip tattoo technician; general manager; handicapper; horse identifier; horsemen's bookkeeper; state investigators; special agents of the commission; jockey room custodian; official veterinarian; outrider; paddock judge; [pari-mutuel] pari-mutuel manager; patrol judge, absent video replay equipment; placing judge, if duty not performed by stewards; racing secretary; racing veterinarian; stable superintendent; starter; stewards; timer; track superintendent; any other person designated by the commission.

(1) **Eligibility:** To qualify as a racing official, the applicant shall: be of good character and reputation; demonstrate experience in flat racing; be familiar with the duties of the position and with the commission's rules of flat racing and show an ability to fulfill the requirements of the position. Stewards must be accredited by the racing officials accreditation program and be current with continuing education requirements.

(2) **Approval and licensing:** The commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing. An association shall submit to the commission its request for approval of racing officials 60 days prior to the first day of the race meet.

(3) **Prohibited practices:** While serving in an official capacity, racing officials and their assistants shall not: participate in the sale or purchase, or ownership of any horse racing at the meeting; sell or solicit horse insurance on any horse racing at the meeting; be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards; wager on the outcome of any race under the jurisdiction of the commission; consume or be under the influence of alcohol or any prohibited substances while performing official duties.

(4) **Report of violations:** Racing officials and their assistants shall report immediately to the stewards every observed violation of these rules and of the laws of this state governing racing.

(5) **Complaints against officials:** Complaints against any steward shall be made in writing to the commission and signed by the complainant.

(a) Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

(b) A racing official may be held responsible by the stewards or the commission for their actions, and the actions of their assistants and employees.

(6) **Appointment:**

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the commission.

(b) The commission shall appoint or approve the stewards at each race meeting.

(7) **Appointment of substitute officials:** Where an emergency or prolonged vacancy exists among an association's employed racing [officials except for stewards] official, the stewards or the association, with the stewards' approval, shall make reasonable efforts to fill the vacancy [immediately]. Such appointment shall be reported to the commission and shall be effective until the vacancy is filled in accordance with these rules.


(8) **Appointment of substitute steward:** Should any steward be absent [at race time, and no approved alternate steward be available, the remaining stewards] due to an emergency or prolonged vacancy the executive director or the presiding steward may [shall] appoint a substitute [for the absent] steward. If a substitute steward is appointed, the commission and the association shall be notified by the stewards. The [following] director or any racing commissioner are prohibited from serving as a substitute steward[~~:- director, deputy director, or racing commissioner~~].

B. Stewards:

- (1) **General authority:** The stewards for each meeting shall be responsible to the commission for the conduct of the race meeting in accordance with the laws of this state and these rules.
- (a) The stewards shall enforce these rules and the racing laws of this state.
- (b) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to ~~[insure]~~ ensure compliance with the act and these rules.
- (c) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.
- (d) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. Whenever the stewards find any person culpable for any act or omission in violation of these regulations or any violation of the Horse Racing Act, the person shall be subject to disciplinary action, which could include a fine, suspension, or revocation/denial of license or any combination of these penalties.
- (e) The stewards shall have the authority to amend, revoke, rescind or modify any ruling that they issued in error in accordance with the laws of this state and these rules.
- (2) **Period of authority:** The stewards' period of authority shall commence up to ten days prior to the beginning of each meeting and shall terminate with the completion of their business pertaining to the meeting. ~~[Following the completion of the stewards' business, the agency director shall carry out the duties of the stewards as described in this chapter.]~~

C. Racing secretary:



- (1) **General authority:** The racing secretary shall be responsible for the programming of races during the race meeting, compiling and publishing condition books, assigning weights for handicap races, and shall receive all entries, subscriptions, and declarations ~~[and scratches]~~.
- (2) **Foal, health and other eligibility certificates:**
- (a) The racing secretary or their designee shall be responsible for receiving, inspecting and safeguarding the digital or paper foal and health certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds.
- (b) The racing secretary shall ensure that the foal certificates for all thoroughbred horses entered to race that were foaled in 2018, or thereafter, have a digital tattoo. This digital tattoo shall indicate that the thoroughbred racing protective bureau has confirmed the identity of the horse and uploaded updated digital photographs to the breed registry database.
- (3) **Allocation of stalls:**
- (a) The racing secretary shall assign stall applicants such stabling as is deemed proper and maintain a record of arrivals and departures of all horses stabled on association grounds.
- (b) ~~[Stall approvals shall be determined by: each track's screening rule as approved by the New Mexico racing commission; consideration given to stables with a balanced application; and, New Mexico bred on each application shall have preference over horses of comparable quality.]~~ Allocation of stalls shall be determined by each association's screening process. Preference may be given to stables that are balanced and consist of New Mexico bred.
- (4) **Conditions:**
- (a) The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the commission and be posted in the racing secretary's office.
- (b) Any conditions that are based on a participating horse's use or non-use of a drug substance or medication, or the presence or lack of presence of a drug substance or medication in a biological test sample taken from a participating horse, shall be approved by the commission before entries are taken for the race. If such conditions are based on the results of a biological test sample other than an official test sample collected by the commission, a description of the testing methods and procedures the racing association will use to collect and analyze the biological test samples shall be submitted to the commission for approval. For purposes of this section, "biological test sample" refers to any biological sample, including, but not limited to, blood, urine, hair, tissue, or saliva that is taken from a horse.

- (c) For the purpose of establishing conditions, winnings shall be considered to include all monies won up to the time of the start of a race.
- (d) Winnings during the year shall be calculated by the racing secretary from the preceding January 1.
- (e) A minimum of three races restricted to registered New Mexico bred horses shall be offered daily in the condition book excluding trials.
- (f) The racing secretary shall not offer any races or accept entries for two year olds in New Mexico prior to June 

E. Paddock judge:

- (1) **General authority:** The paddock judge shall:
- (a) supervise the assembly of horses in the paddock before the scheduled post time for each race;
- (b) maintain a written record of all equipment;
- (c) ~~insure~~ [ensure] all horses running are properly equipped with a nylon rein or a safety rein (a safety rein is a rein with a nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp);
- (d) inspect all equipment of each saddled and report any change thereof to the stewards;
- (e) prohibit any change of equipment without the approval of the stewards;
- (f) ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;
- (g) supervise paddock schooling of all horses approved for such by the stewards; and
- (h) report to the stewards any observed cruelty to a horse; ensure that only properly authorized persons are permitted in the paddock; report to the stewards any unusual or illegal activities.

O. Racing veterinarian:

- (1) ~~[General authority: At the discretion of the commission, the racing veterinarian may be an employee of the commission. At the discretion of the commission, the duties of the racing veterinarian may be assumed by the official veterinarian.]~~ The racing veterinarian shall be employed by the association.
- (2) ~~[The association may employ an additional racing veterinarian in order to further ensure the safety of racing.]~~ The association shall ensure that no fewer than two racing veterinarians are on duty at the association during all live racing. 
- (3) The association shall ensure that a minimum of one racing veterinarian shall be on duty during all training hours. 

- ~~(3)~~(4) The racing veterinarian shall:
- (a) be directly responsible to the official veterinarian;
- (b) be a graduate veterinarian and be licensed to practice in the state;
- (c) be available to the racing secretary and the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards;
- (d) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;
- (e) inspect any horse when there is a question as to the physical condition of such horse;
- (f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;

(g) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with their opinion as to the cause of the distress to the stewards and to the official veterinarian;

(h) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(i) refrain from directly treating or prescribing for any horse scheduled to participate during their term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(j) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing to so act;

(k) conduct soundness inspections on horses participating in races at the meeting;
and

(l) with approval of the official veterinarian, place horses on the bleeders list.

~~(4)~~(5) The official veterinarian or racing veterinarian shall maintain the veterinarian's list of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official or racing veterinarian that the horse is unfit to race.

(a) Horses so listed are ineligible to enter in a race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(b) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse may be released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(c) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(i) A minimum of seven calendar days has elapsed;

(ii) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(iii) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 for thoroughbreds or better; or 220 yards at 13.3 seconds for quarter horses or better while being observed by the official veterinarian or racing veterinarian, and;

(iv) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(d) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.9 NMAC.

(e) A horse placed on the veterinarian's list for the administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.8 NMAC.

~~(5)~~(6) The racing veterinarian shall be present at the office of the racing secretary or stewards prior to scratch time each racing day at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards.

~~(6)~~(7) The restrictions of Paragraph ~~(3)~~(4) of Subsection O of 15.2.3.8 NMAC may be waived for a temporary appointment to replace an absent racing veterinarian or in the event of an emergency situation with prior approval from the director of the commission.

[15.2.3.8 NMAC - Rp, 15 NMAC 2.3.8, 4/13/2001; A, 11/15/2001; A, 8/30/2007; A, 6/15/2009; A, 6/30/2009; A, 12/1/2010; A, 5/1/2015; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 12/28/2021; A, 5/24/2022]

History of 15.2.3 NMAC: [RESERVED]

The purpose of these amendments are to eliminate and correct rule conflicts regarding condition of claimed horses and provide clearer understanding of claiming processes, procedures and stewards' voiding of a claim.

15.2.4.6 **OBJECTIVE:** ~~[The objective of Part 4 of Chapter 2 is to]~~ To achieve the objective that all horse races be conducted fairly and honestly.

15.2.4.8 **CLAIMING RACES:**

A. General Provisions:

(1) A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

(2) A filly or mare that has been bred is ineligible to enter into a claiming race unless a licensed veterinarian's certificate dated at least 25 days after the last breeding of that mare is on file with the racing secretary's office stating that the mare or filly is not in foal. However, an in-foal filly or mare shall be eligible to enter into a claiming race if the following conditions are fulfilled:

(a) full disclosure of such fact is on file with the racing secretary and such information is posted in the racing secretary's office;

(b) the stallion service certificate has been deposited with the racing secretary's office (although all information obtained on such certificate shall remain confidential);

(c) all payments due for the service in question and for any live progeny resulting from that service are paid in full;

(d) the release of the stallion service certificate to the successful claimant at the time of claim is guaranteed.

(3) The stewards may ~~[set aside and order recession of]~~ void a claim for any horse from a claiming race run in this jurisdiction upon a showing that any party to the claim committed a prohibited action, as specified in Subsection E of 15.2.4 NMAC with respect to the making of the claim, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of ~~[these rules regarding claiming races]~~ this rule. Should the stewards order a ~~[recession of a]~~ claim void, they may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate.

(4) The successful claimant of a horse shall be notified of a medication violation. Once notified, the successful claimant has 72 hours in which to request the stewards to void the claim. If the claim is voided the stewards may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate. If the claim is not voided, all applicable time requirements and procedures pursuant to Subsection C of 15.2.6.9 NMAC shall follow the horse.

(5) ~~[A claim shall be voided if a horse is a starter as determined by the New Mexico racing commission, and the horse:~~

~~(a) dies on the track; or~~

~~(b) suffers injury requiring euthanasia of the horse as determined by the official or racing veterinarian while the horse is on the track or at the test barn.]~~ Title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter.

(6) All claimed horses shall go to the test barn for observation by the official or racing veterinarian.

(7) The claim shall be voided, and ownership of the horse retained by the original owner if:

(a) the horse dies on the racetrack;

(b) the horse is euthanized before leaving the racetrack;

(c) the horse is vanned off the racetrack by discretion of the official or racing

veterinarian;

or

(d) the official or racing veterinarian determines within 45 minutes of the race that the horse will be placed on the veterinarians' list as bled, physically distressed, medically compromised, unsound, or lame before the horse is released to the successful claimant.

(8) The claim shall not be voided, if prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the official or racing veterinarian determines the horse will be placed on the veterinarians' list as bled or unsound or the horse tests positive for a prohibited substance.

C. Claiming of Horses:

(1) Any horse entered in a claiming race that is not present in the paddock at least 10 minutes to post will be scratched.

(2) Any horse in a race for claiming may not wear into the paddock anything it will not race in except for a blanket, rain sheet or halter and lead shank for control.

(3) Any horse starting in a claiming race is subject to be claimed for its entered price by any: licensed owner; holder of a valid claim certificate; licensed authorized agent acting on behalf of an eligible claimant.

(4) Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse ~~[enters the track to the post]~~ is determined by the stewards to be a starter in a race. The successful claimant shall become the owner of the horse. ~~[regardless of whether it is alive or dead, sound or unsound, or injured during the race or after it.]~~

F. Procedure for Claiming:

(1) To make a valid claim for a horse, an eligible person shall:

(a) have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; and for all quarter horse claims shall also have on deposit in their horsemen's account all fees for a rush transfer, not to exceed \$100.00, prior to entering;

(b) accurately complete, without the use of nicknames, a written claim slip in a manner that is consistent with how the claimant is licensed with the commission ~~[including information that the claimant holds a current valid license]~~ on a form furnished by the association and approved by the commission;

(c) identify the horse to be claimed by the spelling of its name on the certificate of registration or as spelled on the official program, including the country of origin;

(d) place the completed claim form inside a sealed envelope furnished by the association and approved by the commission;

(e) have the time of day that the claim is entered recorded on the envelope;

(f) have the envelope deposited in the claim box no later than 10 minutes prior to post time of the race for which the claim is entered.

(2) After a claim has been deposited in the claim box, it is irrevocable and shall not be withdrawn from the claim box.

(3) Officials and employees of the association shall not provide any information as to the filing of claims until after the horses have entered the track to post.

(4) If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their representatives.

(5) Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

G. Transfer of Claimed Horses:

(1) Upon successful claim, the stewards shall issue, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

(2) A person shall not refuse to deliver a properly claimed horse to the successful claimant.

(3) Transfer of possession of a claimed horse shall take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the original trainer or their representative shall maintain physical custody of the claimed horse and shall

observe the testing procedure and sign the test sample tag. The successful claimant or their representative shall also accompany the horse to the test barn.

(4) When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

(5) Ownership interest in any horse claimed from a race shall not be resold or transferred for 30 days after such horse was claimed, except by claim from a subsequent race.

(6) A claimed horse shall not race elsewhere, except within state, or out of state stake races for a period of 30 days or the end of the meet, whichever occurs first.

(7) A claimed horse shall not remain in the same stable or under the control or management of its former owner.

(8) Entry of horses subject to being claimed in a claiming race implies owner (trainer as the agent of the owner) consent for transfer of all veterinary exam and treatment records for the last 60 days to the new trainer of the claimed horse within three days of the transfer.

[15.2.4.8 NMAC - Rp, 15 NMAC 2.4.8, 3/15/2001; A, 10/31/2006; A, 6/15/2009; A, 6/30/2009; A, 1/1/2013; A, 6/1/2016; A/E, 6/28/2016; A, 12/16/2016; A, 5/1/2019; A, 4/20/2021]

The purpose of proposed amendments is to provide more detail regarding the process of entering a horse into a race and the responsibilities of the entry clerk.

15.2.5.8 ENTRIES AND NOMINATIONS:

A. Entering: No horse shall be qualified to start unless it has been and continues to be entered.

B. Procedure:

(1) Entries and nominations shall be made with the racing ~~secretary~~ office and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of one year.

(2) An entry shall be in the name of the horse's owner and made by the trainer or an assistant trainer. Any horse which is in a race or on the also-eligible list may not be sold or transferred until that obligation is completed, except with permission of the stewards.

(3) Numbered races printed in the condition book shall have preference over extra races. Should any race fail to draw seven separate wagering interests, it may be called off.

(4) An entry must be made either in person in writing on an entry blank provided by the association, by telephone call, or by email ~~[electronically or facsimile machine]~~ to the racing ~~secretary~~. The entry must be confirmed in writing should the stewards or the racing secretary so request.

(5) The person making an entry shall clearly designate the horse so entered.

(6) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

(7) No horse may be entered in more than one race (with the exception of stakes races) to be run on the same day at the same track on which pari-mutuel wagering is conducted. If a horse is entered in more than one stakes race to be run on the same day, at the time of draw, the trainer must declare which race the horse will run in.

(8) No horse may be entered to run at two different tracks on the same day on which pari-mutuel wagering is conducted.

(9) Any permitted medication must be declared on the original entry at each race meet. No further declaration will be required at that meet unless there is a change.

(10) Any approved change of equipment must be declared at time of entry. Any changes after that time must be approved by the stewards.

(11) ~~An entry clerk or any other person taking an entry shall indicate on the entry form that they took the entry on a horse.~~

(12) ~~An entry clerk or any other person taking an entry shall indicate on the entry form who they took the entry from by way of the person's name, and last four of social security numbers, or date of birth, or telephone number, or New Mexico racing commission license number.~~

(13) ~~An entry clerk or any other person taking an entry shall not divulge any information regarding a race with the exception of the entered number of horses already entered.~~

(14) ~~An entry clerk or any other person taking an entry shall not override any warning in the RTO Incompass system for a horse that is on the stewards', starter's or paddock judge's lists, or has inadequate published workouts pursuant to subsection A of 15.2.5.11 NMAC or is ineligible based on the horse's past performances unless approved by the Stewards..~~

The purpose of the proposed amendment is to clarify when and who has authority to request a scratch of a horse following the closing of entries and that stewards have sole authority to approve such request and scratch a horse.

15.2.5.9 DECLARATIONS AND SCRATCHES: Declarations and scratches are irrevocable except with permission of the stewards.

A. Declarations:

(1) A "declaration" is the act of withdrawing an entered horse from a race prior to the closing of entries.

(2) The declaration of a horse before closing shall be made by the owner, trainer or their licensed designee in the form and manner prescribed in these rules.

B. Scratches:

(1) A "scratch" is the act of withdrawing an entered horse from a contest after the closing of entries **subject to approval of the stewards.**

(2) **The stewards have sole authority to scratch a horse if any situation involves a rule violation or is recommended by a veterinarian or concerns of track condition.** The scratch of a horse after closing ~~[shall]~~ of entries may be ~~[made]~~ submitted by the owner, trainer or ~~[their licensed designee]~~ designated assistant trainer, ~~[with permission]~~ **subject to approval** from the stewards.

(3) A horse may be scratched from a stakes race for any reason at any time up until 45 minutes prior to post time for that race **subject to approval from the stewards.**

(4) No horse may be scratched from an overnight race without approval of the stewards.

(5) In overnight races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than eight betting interests in the daily double or exotic wagering races, or horses representing more than eight betting interests in any other overnight race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(6) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness may not be accepted until the expiration of seven calendar days after such horse was scratched or excused and the horse has been removed from the veterinarian's list.

[15.2.5.9 NMAC - Rp, 15 NMAC 2.5.9, 3/15/2001; A, 10/31/2006; A, 3/14/2018]

The purpose of the proposed amendments is to clarify and expand specifics of ineligibility to enter and to start.

15.2.5.12 HORSES INELIGIBLE:

- A.** A horse shall be ineligible to ~~[start]~~ enter in a race when:
- ~~[(1)]~~ it is not stabled on the grounds of the association or present by the time established by the commission;
 - ~~[(2)]~~ its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018 or thereafter, the horse doesn't have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the stewards' satisfaction;
 - ~~[(3)]~~ if a quarter horse or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter, is not micro-chipped with a unique microchip (ISO11784), freeze brand or identified by any other method approved by the breed registry and commission;
 - ~~[(4)]~~ it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, altered lip tattoo, altered or manipulated microchip (ISO11784), or freeze brand;]
 - ~~[(5)]~~(1) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;
 - ~~[(6)]~~(2) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
 - ~~[(7)]~~ the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;]
 - ~~[(8)]~~ the losing jockey mount fee is not on deposit with the horsemen's bookkeeper;]
 - ~~[(9)]~~(3) its name appears on the starter's list, stewards' list ~~[or]~~, veterinarian's list or paddock judge's list;
 - ~~[(10)]~~(4) it is a first time starter and has not been approved to start by the starter;
 - ~~[(11)]~~(5) it is owned in whole or in part by an undisclosed person or interest;
 - ~~[(12)]~~(6) it lacks sufficient official published workouts or race past performance(s);
 - ~~[(13)]~~ it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;]
 - ~~[(14)]~~(7) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;
 - ~~[(15)]~~(8) it is subject to a lease not filed with the stewards;
 - ~~[(16)]~~(9) it is not in sound racing condition;
 - ~~[(17)]~~(10) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;
 - ~~[(18)]~~(11) it has been trachea tubed to artificially assist breathing;
 - ~~[(19)]~~(12) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;]
 - ~~[(20)]~~(13) it has impaired eyesight in both eyes;
 - ~~[(21)]~~(14) it is barred or suspended in any recognized jurisdiction;
 - ~~[(22)]~~(15) it does not meet the eligibility conditions of the race;
 - ~~[(23)]~~(16) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;

~~[(24) — its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the commission;]~~

~~[(25)](17) it is by an unknown sire or out of an unknown mare[; or].~~

~~[(26) — there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission.]~~

B. A horse shall be ineligible to be ~~[entered]~~ start when:

(1) it is the subject of a positive test for a prohibited substance in an official sample based on a final certificate of analysis received from the official laboratory during the period in which the adjudication process involving the violation is ongoing.

(a) In the event the horse is claimed in the race in which the horse allegedly ran with the prohibited substance, the new owner may enter the horse, unless the horse is ordered to go on the stewards' list pursuant to Subsection C of 15.2.6.9 (8)(a-e) NMAC.

(b) Should the horse be claimed thereafter by the owner of the horse in the race in which there was a positive test for a prohibited substance, the horse shall not be allowed to enter unless the adjudication process involving the prior violation is complete.

(2) ~~It is not stabled on the grounds of the association or present by the time established by the Commission or association;~~

(3) ~~its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018 or thereafter, the horse does not have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the stewards' satisfaction;~~

(4) ~~if a quarter horse or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter, is not microchipped with a unique microchip (ISO11784), freeze brand or identified by any other method approved by the breed registry and commission;~~

(5) ~~it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, altered lip tattoo, altered or manipulated microchip (ISO11784), or freeze brand;~~

(6) ~~the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;~~

(7) ~~it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;~~

(8) ~~it is not in sound racing condition;~~

(9) ~~it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;~~

(10) ~~it does not meet the eligibility conditions of the race;~~

(11) ~~its owner(s), lessor(s) or trainer have not completed the licensing procedures required by the commission; or~~

(12) ~~there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission.~~

[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 3/15/2001; A, 7/15/2002; A, 8/30/2007; A, 6/15/2009; A, 1/1/2014; A, 9/15/2016; A, 12/19/2019]

The purposes of the proposed amendments are to clarify jockey fees, correct typographical errors and clarify the rules for zero tolerance of electrical devices and proper and improper use of riding crops.

15.2.5.13 RUNNING OF THE RACE:

C. Jockey requirements:

(1) Jockeys shall report to the jockeys' quarters at the time designated by the association. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled except as approved by the stewards.

(2) A jockey who has not fulfilled all riding engagements, who desires to leave the jockeys' quarters, must first receive the permission of the stewards and must be accompanied by an association security guard.

(3) Except as otherwise provided by this subsection, a jockey engaged for a certain race or for a specified time may not fail or refuse to abide by the engagement agreement, unless excused by the stewards. Failure to fulfill riding engagements may result in disciplinary action.

(4) A jockey may be excused by the stewards from fulfilling the jockey's riding engagement if the jockey believes the horse he or she is to ride is unsafe, or the racecourse he or she is to ride on is unsafe, or the jockey is ill or injured, or other extenuating circumstances. No jockey may take off a mount for reasons of safety without first mounting and taking that horse to the track and/or commission veterinarian unless that horse is unruly in the paddock. In that event a jockey's fee is not earned.

(5) Any jockey unseated or thrown from their mount in the saddling paddock, during the parade to post, while being loaded in the starting gate, during the race, or after the race, may be required by the stewards to be examined by the paramedic, doctor or registered nurse before being allowed to ride. Refusal to be examined or receive medical treatment may be grounds for the stewards to take the rider off their mount for that race and any other races on that day. In the event the jockey is injured or unable to ride they shall be required to provide a doctor's medical release before they are allowed to resume participation in racing or training.

(6) The stewards may require a jockey who is excused from fulfilling a ~~riding~~ riding engagement, because of illness or injury, to pass a physical examination conducted by a licensed physician not employed by the association before resuming race riding.

(7) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' quarters other than commission personnel and officials, an owner or trainer for whom the jockey is riding or a representative of the regular news media, except with the permission of the stewards. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other person designated by the stewards.

(8) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than 30 minutes before post time for each race.

(9) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. In the event an owner or trainer elects to remove a jockey from his or her mount after naming a rider at the time of draw, the stewards may require a double jockey fee to be paid. The fee to be paid is equal to that earned by the jockey who rode the horse. The fee shall not be considered earned when a jockey(s), of their own free will, take themselves off their mounts, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above rule shall be at the discretion of the stewards. All jockey protests must be filed prior to the race.

(10) A jockey's fee shall include any extra monies added to the purse.

~~(10)~~(11) Only valets employed by the association shall assist jockeys in weighing out.

~~(11)~~(12) A jockey's weight shall include their clothing, boots, saddle and its attachments and any other equipment except the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles and number cloth.

Upon the stewards' approval, jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

~~[(42)](13)~~ Five pounds is the limit of overweight any horse is permitted to carry.

~~[(43)](14)~~ Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be re-admitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the stewards.

D. Paddock to post:

(1) Each horse shall carry the full weight assigned for that race from the paddock to the starting post, and shall parade past the stewards' stand, unless excused by the stewards. The post parade shall not exceed 12 minutes, unless otherwise ordered by the stewards. It shall be the duty of the stewards to ensure that the horses arrive at the starting gate as near to post time as possible.

(2) In the post parade, all pony persons, or trainers who pony horses, must wear upper body apparel in accordance with the policy of the commission.

(3) After the horses enter the track, no jockey may dismount nor entrust his horse to the care of an attendant unless, because of accident occurring to the jockey, the horse or the equipment, and with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track, only the jockey, an assistant starter, the official veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

(4) If a jockey is seriously injured on the way to the post, the horse may be returned to the paddock and a replacement jockey obtained.

(5) After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner unless otherwise directed by the stewards. Once at the post, the horses shall be started without unnecessary delay.

(6) In case of accident to a jockey or their mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay and may permit all jockeys to dismount and all horses to be attended to during the delay.

(7) If a jockey is thrown on the way from the paddock to the post, the horse must be remounted, returned to the point where the jockey was thrown and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

(8) If a horse leaves the course while moving from paddock to post, the horse shall be returned to the course at the nearest practical point to that at which it left the course and shall complete its parade to the post from the point at which it left the course unless ordered scratched by the stewards.

(9) No person shall willfully delay the arrival of a horse at the post.

(10) The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start. An appointed representative may tail the horse with the starter's consent. In case of an emergency, the starter may grant approval for a horse to be tailed. In any case, the ~~steward's~~[stewards] shall be notified of who is tailing horses.

E. Post to finish:

(1) The start.

(a) The starter is responsible for assuring that each participant receives a fair start.

(b) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the stewards may declare such a horse a non-starter.

(c) Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse shall be declared a non-starter by the stewards.

(d) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may declare individual horses to be non-starters, excluding individual horses from all pari-mutuel pools or declare a "no contest" and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(2) Interference, jostling or striking.

(a) A jockey shall not ride carelessly or willfully so as to permit their mount to interfere with, impede or intimidate any other horse in the race.

(b) No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.

(c) No jockey shall unnecessarily cause their horse to shorten its stride so as to give the appearance of having suffered a foul.

(3) Maintaining a straight course.

(a) When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

(b) The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

(c) If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey.

(d) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

(4) Disqualification.

(a) When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horse as in their judgment it interfered with, or they may place it last.

(b) If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(c) When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(d) The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and trial qualification.

(e) In determining the extent of disqualification, the stewards in their discretion may: declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry; affirm the placing judges' order of finish and suspend or fine a jockey if, in the stewards' opinion, the foul riding did not affect the order of finish; disqualify the offending horse and not penalize a jockey if in the stewards' opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

(5) Horses shall be ridden out: All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without adequate cause, even if the horse has no apparent chance to win prize money.


(6) No electrical, mechanical or other expedient object or device utilized to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone or applied by anyone to the horse at any time on the grounds of the association during the meet, whether in a race or otherwise.

~~[(6)]~~(7) Use of riding crops.

(a) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

(b) In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.

~~[(c)] No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.]~~

~~[(d)]~~(c) Riding crops shall not be used on two-year-old horses before ~~March~~ June 1 of 

~~[(e)]~~(d) Indiscriminate use of the whip is prohibited including whipping a horse: on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse; during the post parade or after the finish of the race except when necessary to control the horse;

excessively or brutally causing welts or breaks in the skin; when the horse is clearly out of the race or has obtained its maximum placing; persistently even though the horse is showing no response under the riding crop; or striking another rider or horse.

(8) Excessive use of the crop includes:

(a) Riders cannot use the riding crop more than three times in succession during a race, excluding showing or waiving the crop.

(b) Riders cannot use the crop more than three times in succession without giving the horse a chance to respond before using the crop again.

(c) The horse has cuts, welts or breaks in the skin.

(9) Correct uses of the riding crop are:

(a) showing or waving the crop without touching the horse;

(b) in a position with the crop always at or below the shoulder level of the jockey;

(c) tapping the horse on the shoulder with the crop in the down position while having both hands holding the reins;

~~[(f)](d)~~ the riding crop shall only be used for safety, correction and encouragement;

~~[(g)](e)~~ after the race, the horses will be subject to inspection by a racing or official veterinarian looking for cuts, welts or ~~[bruises]~~ breaks in the skin. Any adverse findings shall be reported to the stewards;

~~[(h)](f)~~ the giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

~~[(7)]~~ Horse leaving the racecourse. If a horse leaves the racecourse during a race, it must turn back and resume the race from the point at which it originally left the course.]

~~[(8)](10)~~ Returning after the finish.

(a) After a race has been run, the jockey shall ride promptly to the finish line, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(b) If a jockey is prevented from riding to the finish line because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales or may be excused from weighing in by the stewards.

~~[(9)](11)~~ Unsaddling. No person shall assist a jockey with unsaddling except with permission of the stewards and no one shall place a covering over a horse before it is unsaddled.

~~[(10)](12)~~ Weighing in.

(a) A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight by more than two pounds and after consideration of mitigating circumstances by the board of stewards, his or her mount may be disqualified from any portion of the purse money.

(b) In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

(c) If any jockey weighs in at more than three pounds over the proper or declared weight, the jockey may be fined, suspended or ruled off by the stewards, having due regard for any excess weight caused by rain or mud. The case shall be reported to the commission for such action, as it may deem proper.

(d) Upon approval of the stewards, the jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

(e) The post-race weight of jockeys includes any sweat, dirt and mud that have accumulated on the jockey, jockey's clothing and jockey's safety equipment. This accounts for additional weight, depending on specific equipment, as well as weather, track and racing conditions.

~~[(11)](13)~~ Dead heats.

(a) When a race results in a dead heat, the dead heat shall not be run off, owners shall divide except where division would conflict with the conditions of the races.

(b) 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.

(c) 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.

(d) When a dead heat is run for second place and an 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.

(e) 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.

(f) On a dead heat for a match, the match is off for pari-mutuel payoffs and mutuels are refunded.

[15.2.5.13 NMAC - Rp, 15 NMAC 2.5.13, 3/15/2001; A, 8/30/2007; A, 12/1/2008; A, 6/30/2009; A, 9/15/2009; A, 8/16/2010; A, 9/1/2010; A, 10/15/2014; A, 6/1/2016; A, 12/16/2016; A, 12/19/2019]

The purpose of the proposed amendment is to clarify timing of an objection and expand the reasons for a prior objection.

15.2.5.14 PROTESTS, OBJECTIONS AND INQUIRIES:

C. Prior objections:

(1) Objections to the participation of a horse entered in any race shall be made to the stewards in writing, signed by the objector, and filed ~~[not later than one hour prior to post time for the first race on the day which the questioned horse is entered.]~~ no later than post time for the race in which the objection was filed. Any such objections shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

(2) An objection to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

- (a) a misstatement, error or omission in the entry under which a horse is to run;
 - (b) the horse, which is entered to run, is not the horse it is represented to be at the time of entry, or the age was erroneously given;
 - (c) the horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled the horse, or the weight to be carried is incorrect under the conditions of the race;
 - (d) the horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a racehorse as provided in these rules;
 - (e) the horse was entered without regard to a lien filed previously with the racing secretary;
 - (f) the horse is subject of a rule violation.
- (3) The stewards may scratch ~~[from the race any horse]~~ any horse from the race, which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

The purpose of the proposed amendment is to clarify treatment restrictions prior to a race to protect the health and welfare of the equine athletes.

15.2.6.8 VETERINARY PRACTICES:

A. Veterinarians under authority of official veterinarian: Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the official veterinarian and the stewards.

B. Treatment restrictions:

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

(2) Use of physical or veterinary procedures to mask the effects or signs of injury so as to allow training or racing to the detriment of the horses' health and welfare are prohibited.

~~[(2)]~~(3) This subsection does not apply to the administration of the following substances pursuant to the restrictions set forth in 15.2.6.9 NMAC or as they may interfere with post-race testing:

(a) a recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(b) a non-injectable substance on the direction or by prescription of a licensed veterinarian;

(c) a non-injectable non-prescription medication or substance.

~~[(3)]~~(4) No person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission, or a veterinary assistant licensed by the commission acting under the direct supervision of a licensed veterinarian, shall possess on any location under the jurisdiction of the commission any of the following unless approved by the commission:

(a) any drug which is a narcotic, stimulant, or depressant, or any other substance or medication that has been prepared or packaged for injection by a hypodermic syringe, or hypodermic needle;

(b) any hypodermic syringe, hypodermic needle or any equipment associated with the aid of intravenous administration.

(c) No veterinary assistant licensed by the commission shall be allowed to administer a prohibited item pursuant to ~~[Paragraph (3) of]~~ Subsection B of 15.2.6.8 NMAC.

The purpose of the amendments is to include Association of Racing Commissioners International's Model Rules of Racing July 21, 2023 version 12.1.2 and the Association of Racing Commissioners International's Controlled Therapeutic Medication Schedule for Horses, April, 2023 version 16.0; to further the protection of horses and advise licensees by clarifying impacts resulting from positive medication test results, clarify that both post-race and Out-Of-Competition positive test results are prima facie evidence a prohibited substance was administered, to fix typographical errors and to clarify medication restrictions.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The classification guidelines contained within the ~~["uniform classification guidelines for foreign substances and recommended penalties and model rule"], December 2020 version 14.4 and ["association of racing commissioners international controlled therapeutic medication schedule for horses", version 4.2]~~ "Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule", April 2023 version 16.0 and "Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses", version 4.2.1 ~~[revised December, 2020 by the association of racing commissioners international,]~~ are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

A. Penalties:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner's international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the association of racing commissioners international uniform classification guidelines for foreign substances.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be ~~presenting~~~~[present in]~~ a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(6) The recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

(7) ~~[If a positive test arises in a trial race, the horse subject to the positive test is to be placed on the stewards list. The purse for both the trial and the race for which the trial was conducted will be held until the case has been fully adjudicated.]~~

~~(8)~~ When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

~~(8)(9)~~ Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

~~(9)(10)~~ The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition, their presence may be required at any and all hearings relative to the case.

~~(10)(11)~~ Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

~~(11)(12)~~ Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

~~(12)(13)~~ Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean the licensee's spouse or spouse's mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean the licensee's mother, father, brother, sister, son or daughter.

(c) No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

~~(13)(14)~~ Aggravating and Mitigating Factors:

(a) In reaching a decision on a penalty for a violation for the New Mexico horse racing act or New Mexico racing commission rules and regulations, the commission, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in paragraph (2) of this subsection and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors for which a greater penalty is appropriate.

(b) Mitigating circumstances and aggravating factors, which must be considered, include but are not limited to:

(1) The past record of the licensee regarding violations of the New Mexico horse racing act or New Mexico racing commission rules;

(2) the potential of the drug(s) to influence a horse's racing performance and the amount of the drug present;

(3) the legal availability of the drug and whether the drug was prescribed to the horse by a New Mexico racing commission licensed veterinarian;

(4) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) the steps taken by the trainer to safeguard the horse;

(6) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer. An "unaffiliated trainer" means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed to the trainer from whose case such horse(s) were transferred;

(7) the probability of environmental contamination or inadvertent exposure due to human drug use or other facts;

(8) the purse of the race;

(9) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented by an New Mexico racing commission licensed veterinarian;

(10) whether there was any suspicious wagering pattern on the race; or
(11) whether the licensed trainer was acting under the advice of a New Mexico racing commission veterinarian.

(c) The stewards shall consider the classification of a drug substance and the "uniform classification guidelines for foreign substances" if a determination is made that an official test sample from a horse contained;

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this section, or

(2) any drug substance, medication or chemical authorized by this section in excess of the authorized level or other restrictions as set forth in this section.

(d) Penalties for violation of each classification level are listed in Subsection B of 15.2.6.9 NMAC.

C. Medication restrictions:

(1) A finding by the commission approved laboratory of a prohibited substance in an official [post-race or out-of-competition] sample of a horse is prima facie evidence that the prohibited substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race.

(2) Subject to the approval of the commission nothing in this part shall prevent a racing association from setting eligibility conditions for individual races, or for its entire race meet, that prohibit the use or the presence of drug substances or medications in biological test samples collected from participating horses or detection levels lower than what is authorized by the commission. Such conditions if established in accordance with Paragraph (4) of Subsection C of 15.2.3.8 NMAC shall not be deemed in conflict with the rules and regulations of the commission.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) There is no permissible concentration of clenbuterol or albuterol that is allowed to appear in any official sample. This includes samples collected from Quarter Horses and Thoroughbreds.

(5) The restrictions set forth in Paragraph (3) above do not apply to the following substances:

(a) Topical applications, such as antiseptics, ointments, salves, leg rubs and leg paints which may contain antibiotics (excluding procaine, penicillin and chloramphenicol) but which shall not contain ethanol, benzocaine, dimethylsulfoxide, lidocaine, steroids or other medications.

(b) Vitamins and electrolytes, provided the vitamins and electrolytes are administered orally and do not contain any medications.

(c) Mentholated products designed to be used and administered topically to the nostril areas.

(d) Products containing eucalyptus oil and peppermint oil, such as Wind-Aid, provided the products are administered orally and do not contain any medications.

(6) Commission personnel may at any time confiscate any material or devices used for the administration of any substance identified in Paragraph (5) above and submit it to the official laboratory for testing in order to ensure the contents are accurately identified.

(7) The use of a nebulizer or any similar device used to administer a drug or other substance by inhalation is not permitted ~~[on the day a horse is entered to race]~~ on a race day.

(8) Any horse that is the subject of a positive test report from the official laboratory for a drug in one of the following categories shall be placed immediately on the steward's list:

(a) any drug categorized by the association of racing commissioner's international "uniform classification guidelines for foreign substance and recommended penalties and model rule" incorporated by reference under 15.2.6.9 NMAC as a penalty class A substance;

(b) any prohibited anabolic androgenic steroid or any anabolic androgenic steroid in excess of the permitted concentrations listed in Subsection G of 15.2.6.9 NMAC;

(c) clenbuterol, albuterol, or other beta-agonist drugs with significant anabolic effects that are not currently penalty class A drugs (specifically Quarter Horses or Thoroughbreds);

(d) other drugs designed to promote growth or muscle including, but not limited to, growth hormones, somatotropins, insulin growth factors and gene modifying agents;

(e) cobalt in excess of the allowable concentration specified pursuant to Subsection L of 15.2.6.9 NMAC.

(9) Horses placed on the steward's list for a positive test for any of the substances listed in Paragraph (8) of Subsection C above shall remain on the steward's list for 60 days. The first day shall be considered the day following the date of the signed report from the official laboratory.

(10) In order to be removed from the steward's list and prior to entry, the following conditions shall be met:

(a) a minimum of 60 days must have elapsed;

(b) the horse must be presented to the test barn on or after day 60 for the official veterinarian to obtain blood, urine or hair samples;

(c) the collected samples must test negative for any substance identified in Paragraph (8) of Subsection C above;

(d) the cost of the testing, including applicable shipping costs, shall be borne by the licensed owner and must be paid in full at the time of shipment.

(11) If a split sample obtained under Subsection D of 15.2.6.10 NMAC does not confirm the original finding of the official laboratory of a positive test, the horse shall be removed from the steward's list.

(12) A practicing veterinarian that is licensed by the commission may prescribe a drug identified by Paragraph (8) of Subsection C above under the following conditions:

(a) the diagnosis justifying the prescribed drug, the dosage, the expected duration of treatment, the name of the horse and the name of the trainer must be submitted to the official veterinarian on a form prescribed by the commission;

(b) only FDA label-approved drugs for use in the horse may be prescribed;

(c) the horse shall be placed on the veterinarian's list for a period of time not less than 30 days after the last administration of the drug as prescribed;

(d) the horse must be presented to the test barn once eligible to be removed from the list for the official veterinarian to obtain blood or urine samples;

(e) the collected samples must test negative for the prescribed substance and any other substance identified in Paragraph (8) of Subsection C above;

(f) the cost of testing, including applicable shipping costs shall be borne by the licensed owner and must be paid in full at the time of shipment;

(g) horses placed on the veterinarian's list for the therapeutic use of any substance identified in Paragraph (8) of Subsection C above will be exempt from hair sampling for a six-month period following the last day of the reported treatment. Horses will be subject to out of competition blood and urine sampling during the treatment period pursuant to Subsection J of 15.2.6.9 NMAC to ensure that the concentration of drug found is within the range expected for the recognized therapeutic dose of the drug and will be subject to enhanced out of competition blood and urine sampling during the period exempt from hair sampling.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 4/13/2001; A, 8/30/2001; A, 7/15/2002; A, 8/15/2002; A, 9/29/2006; A, 10/31/2006; A, 8/30/2007; A, 1/31/2008; A, 3/01/2009; A, 6/15/2009; A, 6/30/2009; A, 9/15/2009; A, 12/15/2009; A, 3/16/2010; A, 7/05/2010; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 4/30/2012; A, 7/31/2012; A, 12/14/2012; A, 5/1/2013; A/E, 5/2/2013; A, 9/30/2013; A, 4/1/2014; A, 5/16/2014; A, 8/15/2014; A, 9/15/2014; A, 3/16/2015; A, 9/16/15; A, 3/15/2016; A, 6/15/2016; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 10/31/17; A, 3/14/2018; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 4/20/2021; A, 12/28/2021]

The purposes of proposed amendments are to clarify and ensure security guard escorting horses to test barn is provided by an employee of the association, not the commission, and eliminate repetitive subsection.

15.2.6.10 TESTING:

A. Reporting to the test barn:

(1) The official winning horse, ~~[or]~~ as well as any other horses ordered by the commission or the stewards shall be taken to the test barn to have an official sample taken at the direction of the official veterinarian.

(2) The association shall assign an employee to escort horses ordered by the commission or the stewards to go to the test barn.

(3)

~~[(3)]~~ Random or extra testing may be required by the stewards or the commission at any time on any horse.

~~[(3)]~~(4) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

~~[(4)]~~(5) A ~~[track]~~ security guard, employed by the association, shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 18-years-old, be currently licensed by the commission, display their commission identification badge and have a legitimate reason for being in the test barn area.

B. Sample collection:

~~[(1)] Sample collection shall be done in accordance to guidelines and instruction provided by the New Mexico racing commission official veterinarian or the New Mexico racing commission agency director.]~~

~~[(2)]~~(1) The official veterinarian shall determine a minimum sample volume requirement for the primary testing laboratory. A primary testing laboratory must be accredited by ISO 17025 and approved by the commission.

~~[(3)]~~(2) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

~~[(4)]~~(3) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

~~[(5)]~~(4) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(6) No split samples will be collected for determination of TCO2 levels.

[15.2.6.10 NMAC - Rp, 15 NMAC 2.6.10, 4/13/2001; A, 3/30/2007; A, 9/1/2010; A, 7/31/2012; A, 5/1/2013; A, 5/16/2014; A, 6/15/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018]

The purpose of the proposed amendment is to expand the reasons a horse is placed on the veterinarian's list for protection of the horse.

5.2.6.12 PHYSICAL INSPECTION OF HORSES:

B. Veterinarian's list:

(1) The official veterinarian or racing veterinarian shall maintain the veterinarian list of all horses which are determined to be unfit to compete in a race due to illness, **physical distress, medical compromise, heat exhaustion**, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official veterinarian or racing veterinarian that the horse is unfit to race.

(2) Horses ~~[se]~~ listed **pursuant to this rule and on HSA's veterinarians' list** are ineligible to enter to race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(3) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse ~~[maybe]~~ **may be** released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(4) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(a) A minimum of seven calendar days has elapsed;

(b) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(c) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 seconds or better for thoroughbreds; or 220 yards at 13.3 seconds or better for quarter horses while being observed the official veterinarian or racing veterinarian, and;

(d) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(5) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Paragraph (1) of C of 15.2.6.9 NMAC.

(6) A horse placed on the veterinarian's list for administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.8.

C. Postmortem examination:

(1) The commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) The commission may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the commission shall take possession of the horse upon death for a postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(4) If a postmortem examination is to be conducted, the commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The commission may submit blood, urine, bodily fluid, or other biologic specimens collected during a postmortem examination for testing analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) Requests for each postmortem examination shall be filed with the official veterinarian by the owner's or trainer's veterinarian within one hour of the death and shall be submitted on a necropsy submission form entitled New Mexico racing commission necropsy submission form, hereby incorporated by reference and

which is available at all official veterinarian offices and all stable gates. The trainer or their designee is responsible to supply all information to complete this form.

(6) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

(7) Postmortem examinations shall be conducted according to the most recent edition of the American association of equine practitioners' guidelines for the necropsy of racehorses.

(8) Upon completion of the postmortem examination the diagnostic laboratory shall file a written report with the racing commission's agency director and official veterinarian.

(9) The owner or the owner's authorized agent will be responsible for all costs of a postmortem examination, i.e., testing fees, transportation of the horse, disposal, etc., when the results of a postmortem examination constitute a violation of the New Mexico racing commission rules.

[15.2.6.12 NMAC - Rp, 15 NMAC 2.6.12, 4/13/2001; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 7/31/2012; A, 12/19/2019]

History of 15.2.6 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

NMSRC 67-1, Amendment No. 1., Rule Revisions Adopted by the New Mexico State Racing Commission April 21, 1967 Rules 352 & 380, filed 4/26/1967;

NMSRC 69-1, New Mexico Laws and Rules and Regulations Governing Horse Racing, filed 6/9/1969;

NMSRC 81-1, Rules Governing Horse Racing in New Mexico, filed 12/4/1981;

History of Repealed Material:

15 NMAC 2.6, Horse Racing - Veterinary Practices, Equine Health, Medication, and Trainer Responsibility, filed 9/29/1995 repealed in its entirety; renumbered, reformatted and replaced by 15.2.6 NMAC, Horse Racing -

The purpose of this amendment is to ensure associations' processes in obtaining approval of their simulcast agreements prior to commencement of the race meet are in compliance with both text and spirit of applicable federal law.

15.2.7.10 SIMULCAST WAGERING:

A. General Provisions: No person shall conduct or attempt to conduct interstate, or intrastate, simulcast wagering unless authorized and permitted to do so by the commission.

(1) No person shall attempt to conduct wagering on the results of a simulcast unless an agreement has been executed between the host and guest track operators, the agreement has been approved by ~~[the New Mexico Horsemen's Association]~~ a representative of the horsemen's group as defined in the Interstate Horse Racing Act and the agreement is filed with the commission.

~~[(2) In the event the New Mexico horsemen's association withholds its approval of an agreement submitted, reasons for non-approval will be detailed to the commission in writing, with the final decision to be made by the commission.]~~

[15.2.7.10 NMAC - Rp, 15 NMAC 2.7.10, 3/15/2001]

The purposes of proposed amendments are to clarify requirements to apply for a license, require applicants apply for and obtain a license for every capacity applicants are working in within the industry, and require licensees report changes of information to Commission and correct typographical errors.

16.47.1.8 GENERAL PROVISIONS:

A. Licenses required: A person as defined by 15.2.1.7 NMAC shall not participate in ~~[pari-mutuel]~~ **pari-mutuel** racing under the jurisdiction of the commission or be employed by an association who is a gaming operator, without a valid license issued by the commission.

(1) License categories shall include the following and others as may be established by the commission: **Group A** - racing participants eligible for an optional annual or triennial year license to include owners, trainers, veterinarians, jockeys, and stable name registrations. **Group B** - associations, racing professionals, concession operators, contractors, and managerial racing officials. **Group C** - supervisory racing officials. **Group D** - persons employed by the association or employed by a person or concern contracting with the association, to provide a service or commodity, which requires their presence in a restricted area, or anywhere on association grounds while ~~[pari-mutuel]~~ **pari-mutuel** wagering is being conducted. **Group E** - racetrack employees and authorized agents.

(2) Persons required to be licensed shall submit a **thoroughly and accurately** completed application on forms furnished by the commission and accompanied by the required fee. **Persons seeking licensure as an authorized agent for an owner under the age of 18 shall be required to be 18 years or older and shall submit fingerprints to undergo a background check.** The following fees are assessed for the issuance of the specified licenses. In addition to license fees listed herein, \$20.00 is assessed for each identification picture and badge.

N. Changes in application information:

(1) During the period for which a license has been issued, the licensee shall report to the commission changes in information provided on the license applications as to current legal name, marital status, permanent address, **telephone number, email address**, criminal convictions, license suspension of 10 days or more and license revocations in other jurisdictions.

P. More than one license: ~~More than one license to participate in horse racing may be granted except when prohibited by these rules due to a potential conflict of interest.~~ An applicant for a license shall be subject to obtaining a license for each category for which an applicant will be participating, subject to the approval of the board of stewards.

The purpose of proposed amendments it to strengthen requirements for becoming a trainer to better ensure and improve health, safety and welfare of horses; empower Commission to hold trainers accountable for condition of horses in their care, custody and control; require trainers exercise due diligence in ensuring newly acquired horses are free of prohibited substances and detail consequences of catastrophic injuries.

16.47.1.10 TRAINERS:

A. Eligibility:

(1) An applicant for a license as trainer or assistant trainer must be at least 18 years of age.

(2) The board of stewards shall first determine whether the trainer or assistant trainer has taken a test in another pari-mutuel jurisdiction prior to applying for a license in New Mexico and shall have sole discretion in which jurisdiction to reciprocate licensing.

~~[(2)]~~(3) Applicants not previously licensed as a trainer or assistant trainer in New Mexico or applying for a renewal license as a trainer shall be qualified, as determined by the stewards or other commission designee, by reason of:

(a) At least ~~[two]~~ five years experience as a licensed groom, jockey, exercise rider, or pony person ~~[-, plater or owner who is actively participating in the stable area. An owners' license will only be accepted if licensee can prove they are a "hands on" owner actively working as a groom at the racetrack on their own horses under the supervision of a licensed trainer].~~

(b) Shall be required to pass a New Mexico racing commission's sanctioned trainer's written examination, with a minimum score of 80 percent in each category, oral interviews with stewards ~~[and a regulatory veterinarian,]~~ and pass a demonstrate practical skills.

(c) Must submit two written statements from trainers currently licensed in New Mexico as to the character and qualifications of the applicant and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.

(d) Applicants failing the first written/oral examination must wait ~~[30]~~ 90 days before retaking the trainer's test.

(e) Applicants failing the second written/oral examination must wait ~~[60]~~ 180 days before retaking the trainer's test.

(f) Applicants failing the third written/oral examination must wait one year before retaking the trainer's test.

~~[(3)]~~(4) ~~[A trainer licensed and in good standing in New Mexico applying for a renewal license or a trainer from another jurisdiction, and the license having been issued within a 24 month period, may be accepted if evidence of experience and qualifications are provided. In addition, the licensee must have no record of a class 1 or 2 violation, in the preceding 24 month period in any jurisdiction for it to be accepted. Evidence of qualifications shall require passing one or more of the following:]~~ Any trainer who has been the subject of a medication violation in any jurisdiction is subject to an oral examination conducted by the stewards; a demonstration of practical skills; or a New Mexico sanctioned written test and must pass with a minimum score of 80 percent in each category.

~~[(a)]~~ ~~— a written test;~~

~~[(b)]~~ ~~— a demonstration of practical skills;~~

~~[(c)]~~ ~~— an interview with the stewards.]~~

~~[(4)]~~(5) Upon timely request to the steward's or commission designee due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations shall be made for the applicant including, but not limited to, oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the stewards or commission designee administering the examination.

~~[(5)]~~(6) Failure to start a minimum of one horse every six months while holding a trainer's license ~~[will subject]~~ shall require licensee to retest or interview before the board of stewards.

(7) Any trainer who has obtained a trainer's license in another jurisdiction but has failed to start a minimum of five horses in a jurisdiction that conducts pari-mutuel wagering, will be required to pass an oral examination before a New Mexico board of stewards, a barn test administered by a New Mexico racing commission

designee; and take a New Mexico sanctioned written test and must pass with a minimum score of 80 percent in each category.

(8) Any potential trainer or assistant trainer who has started the licensing process in the state of New Mexico and obtains a trainer's or assistant trainer's license in another jurisdiction will be required to pass an oral examination before a New Mexico board of stewards, a barn test administered by a New Mexico racing commission designee, and take a New Mexico racing commission sanctioned written test and must pass with a minimum score of 80 percent in each category.

(9) Any trainer or assistant trainer who has passed the HISA written test will also be required to pass an oral examination before a New Mexico board of stewards, a barn test administered by a New Mexico racing commission designee and take a New Mexico racing commission sanctioned written test and must pass with a minimum score of 80 percent in each category.

B. Absolute insurer:

(1) The trainer is the absolute insurer of the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug or medication, or other prohibited substance in such horses. A positive test for a prohibited drug or medication or other prohibited substance or the presence of permitted medication in excess of maximum allowable levels as reported by a commission-approved laboratory is prima facie evidence of a violation of this rule. The trainer is absolutely responsible regardless of the acts of third parties.

(2) A trainer must prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(3) A trainer whose horse has been claimed remains the absolute insurer for the race in which the horse is claimed.

(4) A trainer whose horse suffers a catastrophic injury that is due to a race related injury, shall have their entire stable ineligible to enter for a minimum period of one week and all horses must pass a soundness examination administered by and before the official veterinarian and the racing veterinarian.

(5) A trainer whose stable suffers a second catastrophic injury in a calendar year that is due to a race related injury, shall have their entire stable ineligible to enter for a minimum period of 30 days, fined \$7,500 and must pass a soundness examination administered by and before the official veterinarian and the racing veterinarian.

(6) For each subsequent catastrophic injury within a calendar year, sanctions shall be double of Subsection B of 16.47.1.10(5).

[16.47.1.10 NMAC - Rp, 16 NMAC 47.1.10, 3/15/2001; A, 11/15/2001; A, 3/30/2007; A, 8/30/2007; A, 6/30/2009; A, 9/15/2009; A, 7/5/2010; A, 5/16/2014; A, 9/15/2014; A, 3/15/2016; A, 6/1/2016; A, 12/16/16; A, 3/14/2018; A, 2/25/2020]

The purpose of proposed amendments is to expand reasons under which licensees may be subject to drug and/or alcohol testing including impacts use of those substances has on public's confidence in the industry and to specify the impacts of the presence of alcohol on the licensee..

16.47.1.17 HUMAN DRUG OR CONTROLLED SUBSTANCE AND ALCOHOL TESTING:

A. ~~[General provisions: The following rules in this chapter establish and describe requirements, criteria, standards and procedures for human substance abuse testing for occupational licensees licensed by the commission.]~~ If a licensee has a medical condition which makes it necessary to possess or use a prohibited substance, or prescribed or controlled substance pursuant to Paragraph B of 15.2.6.8 NMAC, the licensee shall provide to the stewards a letter signed by a licensed physician, physician assistant, or nurse practitioner certifying that the consumption of the prohibited, or prescribed, or controlled substances will not adversely affect the divided attention, psychophysical abilities of the licensee, to include but not limited to reaction time and the ability to judge time and distance. The letter must certify that the prohibited, or prescribed, or controlled substance will not affect a licensee's ability to carry out their responsibilities properly and safely while in the performance of their duties which includes being in actual physical control of a large equine animal or operating mechanical equipment on the grounds of the association and will not jeopardize the health, safety and welfare of the other individuals participating.

B. ~~[Prohibited actions: All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.]~~

~~[C.]~~ **Restricted activities:** All licensees may be subject to testing for controlled substances, drugs and alcohol. It shall be ~~[an offense to exercise the privileges granted by a license from this commission]~~ a violation for a licensee to utilize their commission issued license if the licensee:

- (1) is engaged in illegal sale or distribution of alcohol or a controlled substance;
- (2) possesses, without a valid prescription, a controlled substance;
- (3) is intoxicated or under the influence of alcohol ~~[or a controlled substance];~~
- (4) is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the commission;
- (5) has in ~~[his/her]~~ their possession within the ~~[enclosure]~~ association grounds, any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;
- (6) refuses to submit to drug ~~[urine or]~~ or controlled substances or alcohol testing, ~~[when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition] or both; [or]~~
- (7) presently has drugs ~~[(controlled substances)]~~ or controlled substances or alcohol in ~~[his/her]~~ their body. ~~[With regard to alcohol, the results of a test showing a reading of more than five hundredths percent of alcohol in the blood, urine, saliva or other bodily fluids of licensees in non-safety sensitive positions shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph. Licensees in safety sensitive positions, jockeys, starters, assistant starters, exercise riders, pony persons, ambulance personnel, and outriders are in violation of this rule if they have any measurable level of alcohol.]~~

C. With regard to alcohol, the results of a breath test showing a reading of more than .035 BAC in the sample provided by a licensee in a non-safety sensitive position as determined by the stewards shall be the criterion for a finding of alcohol present in the body. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in a licensee.

D. Licensees in safety positions, as determined by the stewards are in violation of this rule if they have any measurable level of alcohol, as determined by a breathalyzer test. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in the licensee.

E. Trainers and Assistant Trainers: There is zero tolerance to be under the influence of controlled substances or Alcohol or both while saddling horses in the paddock.

[16.47.1.17 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.16 NMAC, 7/1/2017; A, 9/26/2018]

The purposes of proposed amendments are to provide for random or episodic testing without notice, provide for licensee's ability for confirmation test, define what constitutes a refusal to submit to drug or alcohol testing and create progressive penalty system for licensees whose test results show presence of alcohol.

16.47.1.18 TESTING PROCEDURES:

A. ~~[General:]~~ Controlled Substance and Drug Testing:

(1) At its discretion, the commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the ~~[racetrack]~~association grounds.

(2) ~~[When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.]~~ All licensees may be subject to testing for controlled substances and drugs.

(3) No advance notice need be given ~~[as to onset or cessation of random testing].~~

(4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.

~~[(4)](5)~~ For licensees who are testing under the provisions in this chapter, and whose urine testing shows the presence of drugs ~~[(controlled substances) or alcohol, any field screening test results]~~ or controlled substances shall be confirmed by a laboratory acceptable to the commission ~~[which shall include gas chromatography/mass spectrometry (GC/MS) procedures].~~

~~[(5)](6)~~ An association ~~[will]~~shall provide a drug ~~[(controlled substances) and alcohol]~~ or controlled substance screening test for all applicants for ~~[groom]~~grooms, exercise riders, jockey valets, starters, assistant starters, ambulance personnel, and pony persons when making application for license. The cost for the drug-screening test will be borne by the applicant payable to the association at a reasonable cost approved by the commission.

~~[(6)](7)~~ The licensee being tested may request a confirmation test when the sample quantity permits. Such request shall be made in writing immediately after a positive result of the test and be directed to the commission agent involved in the testing. The licensee requesting a confirmation test, or their agent, shall be present during the preparation and packing of the sample for delivery to the commission's testing laboratory. The licensee and the commission shall both be notified of the confirmation testing results.

~~[B. Split sample: When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the urine sample.]~~

~~[C.]~~ (8) **Chain of custody:** The commission shall provide for a secure chain of custody for the confirmation sample ~~[to be made available to the licensee].~~ The commission shall retain ownership of all samples.

~~[D.]~~ (9) **Financial responsibility:** All costs for the transportation and confirmation testing for the sample portion ~~[made available for the licensee]~~ shall be the financial responsibility of the ~~[requesting person]~~ commission, unless otherwise noted in a stewards' ruling. ~~[Payment to the testing laboratory shall be due from the requesting person at the time the request is made to have the split sample tested.]~~

B. Alcohol Testing:

(1) At its discretion, the commission may conduct random or episodic breath alcohol testing as well as testing based on reasonable suspicion, in order to ensure safety on the association grounds.

(2) All licensees may be subject to breath alcohol testing.

(3) No advance notice need be given as to random breath alcohol testing.

(4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.

(5) If the breath testing results for jockeys, exercise riders, jockey valets, trainers, assistant trainers, starters, assistant starters, ambulance personnel, outriders, and pony persons show a reading of more than .000 percent of alcohol, such licensee shall be relieved of their duties for that day.

(6) If the breath testing results for other non-safety position licensees show a reading of more than .035 percent of alcohol, such licensees shall be relieved of their duties for that day.

(7) For a licensee's second breath testing violation in any jurisdiction, the licensee shall be referred to the board of stewards and shall be fined no less than two hundred dollars and shall be suspended for a period of not more than sixty days.

(8) For a licensee's third breath testing violation in any jurisdiction, the licensee shall be fined two hundred dollars, suspended for a minimum of sixty days, and referred to the commission's board of stewards for further action.

[16.47.1.18 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.17 NMAC, 7/1/2017]



November 29, 2023

New Mexico Racing Commission
Ismael Trejo
4900 Alameda NE, Suite A
Albuquerque, NM87113

Honorable Commissioners,

Members of the AQHA Racing Committee have reached out to me regarding the proposed NMRC rule change that would not afford horses the opportunity to race before June 1st of their two-year-old year. Consequently, I am offering our Association's perspective on the matter.

It is my hope that after consideration of the points I will make herein, you maintain regulation that is aligned with the AQHA rules, using March 1st as the date in which two-year-old Quarter Horses can have their first official race. In arguing for our position on the matter, I respectfully submit the following:

My first premise is based on science. In a 2021 study conducted by UC Davis's Dr. Sue Stover, a noted specialist in equine anatomy, the research concludes that horses which enter race training at two years of age are, in fact, found to have greater earnings and longer race careers. In addition, this study sought to determine the relationship between age at first start and the risk of retirement. An inverse association between age at first start and length of racing career was found, with no supporting evidence that racing at 2 years of age increases the risk of retirement from racing. Although the study that is referenced was done using thoroughbreds, one could argue that Quarter Horses are precocious by comparison and are not asked to race the distances of their Thoroughbred counterparts, thereby less vulnerable to injury than those used in the research.

Read more here:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7916178/#:~:text=Horses%20which%20enter%20race%20training,%2C%20articular%20cartilage%2C%20and%20tendons>

As a long time horseman myself, the findings of this study comes as no surprise to me. After all, science tells us that repetitive stress on bones leads to enhanced remodeling, thereby actually creating a *stronger* structure for a two year old.

Secondly, I think one should contemplate the potential for unintended consequences if this rule were implemented. The regulation would likely not prevent the starts of two year olds before June 1st, but instead push many of them to instead participate in unregulated racing. Such participation will not protect the equine athletes from harm, as there are not practices in place to do so. In another jurisdiction this year, a regulated race meet that started in July experienced horrific loss their first day. **Five two year olds** who were in Futurity trials that had shipped in from a neighboring state with an abundance of match racing broke down. With no regulated racing in which to participate early in the race season, I fear more two-year-olds will be vulnerable to such a fate.

Additionally, we at AQHA endorse uniformity amongst racing jurisdictions. We believe that all racing jurisdictions should seek to have very similar regulation. In addition to the concern regarding unregulated racing mentioned above, I am afraid that New Mexico racing will see a mass exodus of horses leaving the Land of Enchantment and choosing support race meets in other states so they can participate in futurities.

Lastly, there are three futurities that are the back bone of Ruidoso Downs. What are the repercussions of abbreviating the calendar days during which the Triple Crown races can be offered? The June 1st date outlined in the proposed rule change would inhibit the traditional trial date for the Ruidoso Futurity of Memorial Day weekend, and bump it back, thereby losing time to separate the races.

Please feel free to let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Janet VanBebber".

Janet VanBebber
Chief Racing Officer
American Quarter Horse Association

jvanbebbber@aqha.org
(713)446-4052

The Downs at Albuquerque does not support rule 15.2.1.7 (s-12)

The Downs at Albuquerque's objects to having "Substitute Stewards".

Instead of creating a "Substitute Steward" position, we would support a new rule as follows:
Should one or more of the three accredited Stewards become unavailable on a race day, an accredited Steward in another location may remotely replace the absent Steward or Stewards.

The Downs at Albuquerque does not support rule 15.2.2.8

E (5) The Downs at Albuquerque does not want to take on the liability of diagnosing concussions

Change:

E (6) The NMSRC shall ensure that no fewer than two racing veterinarians are on duty at the association during all live racing.

E (7) The NMSRC shall ensure that a minimum of one racing veterinarian shall be on duty during all training hours.

The Downs at Albuquerque does not support rule 15.2.5.9

B (2) The stewards have sole authority to scratch a horse if any situation involves a rule violation or is recommended by a veterinarian. ~~or concerns of track condition~~

The Downs at Albuquerque has a question about this proposed rule

15.2.1.9

A (3)

Summary suspension.

(a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, **integrity** or welfare **of the horseracing industry**, the stewards may summarily suspend the license pending a hearing.