

Dear Senators MCKENZIE, Lodge, Stennett, and
Representatives LOERTSCHER, Batt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Idaho State Police - Idaho State Racing Commission:

IDAPA 11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned
Substances and Drug Testing of Horses - Proposed Rule (Docket No. 11-0411-1502).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/23/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/21/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee
FROM: Senior Legislative Research Analyst - Ryan Bush
DATE: November 06, 2015
SUBJECT: Idaho State Police - Idaho State Racing Commission

IDAPA 11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses - Proposed Rule (Docket No. 11-0411-1502)

11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses - Proposed Rule (Docket No. 11-0411-1502)

The Idaho State Racing Commission submits notice of proposed rulemaking at IDAPA 11.04.11 - Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses. This rule change defines "Primary Laboratory" and "Referee Laboratory" and revises the procedure for testing split samples after a prohibited substance has been identified. Specifically, this rulemaking increases the time frame for shipping a split sample to a referee laboratory from two days to ten days, provides for unforeseen circumstances and provides that an owner or trainer is responsible for costs and fees associated with testing. The Commission states that this rule is modeled after processes for testing in other states.

The Commission states that negotiated rulemaking was not conducted because input was sought from stakeholders. There is no fiscal impact associated with this rulemaking.

The proposed rulemaking appears to be within the statutory authority granted to the Commission in Section 54-2506, Idaho Code.

cc: Idaho State Police - Idaho State Racing Commission
Teresa Baker

**IDAPA 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

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

DOCKET NO. 11-0411-1502

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule defines "Board Approved Primary Laboratory," "Primary Laboratory," and "Referee Laboratory"; clarifies the exact process for split sample testing and allows for additional time for samples to be sent to a referee laboratory. The rule is modeled after processes for testing used in other states.

FEE SUMMARY: No fees are imposed by this rule.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no negative impact on the state general fund. The fiscal impact to dedicated funds will be minimal, if any.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because input was sought from stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No materials were incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission at 208-884-7080.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 26th Day of August, 2015.

Paul J. Schneider, Chairman
Idaho Racing Commission
700 S Stratford Dr.
Meridian, ID 83642
Phone: 208-884-7080
Fax: 208-884-7098

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0411-1502
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

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

~~189.~~ **Racing Association.** Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (3-29-10)

~~1920.~~ **Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (3-29-10)

~~201.~~ **Racing Condition.** The physical ability to race of a horse determined by the commission veterinarian. (3-29-10)

~~22.~~ **Referee Laboratory.** Laboratory approved by the Racing Commission to conduct split sample testing. ()

~~243.~~ **Sample.** A blood or urine sample taken from a horse at the direction of the commission veterinarian. (3-29-10)

~~224.~~ **Split Sample.** A blood or urine sample taken from a horse that is greater than the minimum sample requirement. (3-29-10)

~~235.~~ **Suspension.** Punishment for violation of the Racing Commission rules. The offender is denied privileges of the racing facilities for a specified period of time. (3-29-10)

~~246.~~ **Test Area.** A barn provided by a racing association used for taking specimens of urine, blood or other bodily substances or tissues for testing. (3-29-10)

~~257.~~ **Trainer.** The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (3-29-10)

~~268.~~ **Veterinarian's List.** A list of all horses which are ineligible to be entered in any race due to a physical condition. (3-29-10)

~~279.~~ **Veterinarians' Reports.** The Medication Report Form completed by every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission. (3-29-10)

~~2830.~~ **Veterinarian.** Practicing Private practitioner employed by owners and trainers on an individual case or contract basis. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

120. TRAINER PRESENT.

01. Present During Testing. The Trainer, or his authorized representative, must be present in the testing area when a urine or other specimen is taken from a horse. (~~3-29-10~~)()

02. Tag Signed. The sample tag must be signed by the Trainer or his representative, as witness to the taking of the specimen. (3-29-10)

03. Refusal. Willful failure to be present at or a refusal to allow the taking of such specimen, or any act or threat to impede or prevent or otherwise interfere therewith, subjects the person or persons doing so to immediate suspension by the Stewards and the matter will be referred to the Racing Commission for such further penalty as may be determined. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

160. TESTING SPLIT SAMPLES.

After having been notified that a written report from a primary laboratory ~~states~~ stating that a prohibited substance has been ~~found~~ identified in a specimen obtained pursuant to these rules, a trainer or owner of a horse may request that a split sample, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Racing Commission. ()

01. Submission of Testing Request. ~~The~~ A formal request for split sample testing must be made in writing and delivered to the Stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. ~~Any split sample so requested must be shipped within an additional forty-eight (48) hours. The request must include the requesting trainer or owner's top three (3) referee laboratory choices. Any request for split sample testing not received by the specified deadline, and/or without all the required information, shall be considered invalid.~~ (3-29-10)()

02. Lab's Willingness to Test. Upon receipt of the written request for split sample testing, the Racing Commission shall confirm the referee laboratory has agreed to accommodate the request and provide official test results to the Racing Commission. The Racing Commission shall identify the confirmed referee laboratory to the requesting owner or trainer to arrange for payment of shipping costs and testing services costs. ()

03. Shipping and Testing Fees. The requesting owner or trainer is entirely responsible for all costs and fees associated with sample shipment and testing services. Payment for sample shipment must be made to the Commission Veterinarian, or his authorized designee, prior to shipment of the split sample. Once the Racing Commission has received confirmation of payment of necessary fees required for split sample testing, the requested split samples shall be shipped to the referee laboratory within ten (10) business days. Shipments are mailed only on Monday, Tuesday or Wednesday to avoid the samples sitting in a warehouse unrefrigerated over a weekend if there is a problem in transit. ()

04. Unforeseen Circumstances. ()

a. If the Racing Commission is unable to secure the services of a referee laboratory, the Racing Commission shall have the option to request the primary laboratory to conduct the split sample testing. The owner and trainer affected will be notified by the Racing Commission. ()

b. If the Racing Commission is unable to contact the affected trainer or owner by telephone or last known location, the Racing Commission may proceed with split sample testing by the primary laboratory. ()

c. If an Act of God, power failure, accident, strike, or other action that is beyond the control of the Racing Commission prevents a split sample from being tested, the test results of the primary laboratory shall be accepted as prima facie evidence. ()

05. Split Sample Test Results. The referee laboratory shall send the results of the split sample test to the Racing Commission and the Racing Commission shall forward those results simultaneously to the requesting owner or trainer as quickly as possible. ()

a. If the split sample testing confirms the findings of the primary laboratory, it shall be considered a prima facie violation of the applicable provisions of this chapter. ()

b. If the split sample testing does not substantially confirm the findings of the primary laboratory, it shall not constitute a prima facie violation of this chapter and no penalty will be imposed by the Racing Commission. ()

~~161.—169. (RESERVED)~~

~~170. REQUEST FOR TEST PROCEDURE.~~

~~01- Requester Responsible for Costs. The owner or trainer requesting testing of a split sample is responsible for any and all costs of shipping and testing. (3-29-10)~~

~~02. **Failure to Appear.** Failure of the owner, trainer or designee to appear at the time and place designated by the Commission Veterinarian constitutes a waiver of all rights to split sample testing. (3-29-10)~~

~~03. **Lab's Willingness to Test.** Prior to shipment, the Racing Commission must confirm the split sample laboratory's willingness to: (3-29-10)~~

~~a. Simultaneously provide the testing requested; (3-29-10)~~

~~b. The laboratory's willingness to send results to both the person requesting the testing and the Racing Commission; and (3-29-10)~~

~~e. Arrangements for payment satisfactory to the split sample laboratory. (3-29-10)~~

1761. -- 179. (RESERVED)