



## FEDERAL TRADE COMMISSION

[File No. P222100]

### **Horseracing Integrity and Safety Authority Racetrack Safety Rule Modification**

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice of Horseracing Integrity and Safety Authority (HISA) proposed rule modification; request for public comment.

**SUMMARY:** As required by the Horseracing Integrity and Safety Act of 2020, the Federal Trade Commission publishes a proposed modification of the Horseracing Integrity and Safety Authority's rules addressing horseracing in the United States. The proposed rule modification would amend the Rule Series 2000 Racetrack Safety Rule, which establishes rules concerning racetrack safety and the safety of Covered Horses and Covered Persons. This document contains the Authority's proposed rule modification's text and explanation, and it seeks public comment on whether the Commission should approve the proposed rule modification.

**DATES:** The Commission must approve or disapprove the proposed modification on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. If approved, the proposed rule modification would be effective on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Comments must be filed on or before [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the SUPPLEMENTARY INFORMATION section below. Write "HISA Racetrack Safety Rule Modification" on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail

your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex H), Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Sarah Botha (202-326-2036), Attorney Advisor and Acting HISA Program Manager, Office of the Executive Director, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:**

The Horseracing Integrity and Safety Act of 2020<sup>1</sup> (the “Act”) recognizes a self-regulatory nonprofit organization, the Horseracing Integrity and Safety Authority (“HISA” or the “Authority”), which is charged with developing proposed rules on a variety of subjects. Those proposed rules and later proposed rule modifications take effect only if approved by the Federal Trade Commission (“FTC” or the “Commission”).<sup>2</sup> The proposed rules and rule modifications must be published in the *Federal Register* for public comment.<sup>3</sup> Thereafter, the Commission has 60 days from the date of publication to approve or disapprove the proposed rule or rule modification.<sup>4</sup>

Pursuant to section 3053(a) of the Act and Commission Rule 1.142, notice is hereby given that, on September 21, 2023, the Authority filed with the Commission a proposed Racetrack Safety Rule modification and supporting documentation as described in Items I, II, III, and IX below, which Items have been prepared by the Authority. The Office of the Secretary of the Commission determined that the filing complied with the Commission’s rule governing such submissions.<sup>5</sup> The Commission is publishing this document to solicit comments on the proposed rule modification from interested persons.

**I. Self-Regulatory Organization’s Statement of the Background, Purpose of, and**

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<sup>1</sup> 15 U.S.C. 3051 through 3060.

<sup>2</sup> 15 U.S.C. 3053(b)(2).

<sup>3</sup> 15 U.S.C. 3053(b)(1).

<sup>4</sup> 15 U.S.C. 3053(c)(1).

<sup>5</sup> 16 CFR 1.140 through 1.144; *see also* FTC, Procedures for Submission of Rules Under the Horseracing Integrity and Safety Act, 86 FR 54819 (Oct. 5, 2021).

## **Statutory Basis for the Proposed Rule Modification**

### **a. Background and Purpose**

The Act recognizes that a national uniform set of standards for racetrack safety will apply to a broad range of racetracks with widely varying environments in terms of economic structure, race dates, physical attributes, prevailing weather conditions, and other factors. As such, the Act directs the Authority to develop and implement “training and racing safety standards and protocols taking into account regional differences and the character of differing racing facilities.”<sup>6</sup> The Racetrack Safety Rule utilized a practical approach to this implementation, recognizing that some practices are already in place or can be put in place immediately, while others will require adequate time and resources to implement.

As directed in section 3052(c)(2) of the Act, the Authority’s Racetrack Safety Standing Committee (the “Committee”) was constituted and undertook developing a comprehensive proposed rule setting forth a uniform set of training and racing safety standards and protocols. Since the initial Racetrack Safety Rule was submitted to the Commission,<sup>7</sup> the Committee has spent hundreds of hours over the last twenty months reviewing and analyzing modifications to the safety rules that will enhance human and horse safety and welfare issues. The Committee is comprised of four independent members and three industry members.

This submission is also made in order to comply with the Commission’s March 27, 2023 Order that directed “the Authority to review all of its existing rules (Racetrack Safety, Assessment Methodology, Enforcement, Registration, and [Anti-Doping and Medication Control (“ADMC”)]) and submit any proposed rule modifications to the

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<sup>6</sup> 15 U.S.C. 3056(b)(1).

<sup>7</sup> See FTC, Notice of HISA Racetrack Safety Proposed Rule, 87 FR 435 (Jan. 5, 2022) (“2022 Proposed Rule Notice”); FTC, Order Approving the Racetrack Safety Rule Proposed by the Horseracing Integrity and Safety Authority (Mar. 3, 2022), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/order\\_re\\_racetrack\\_safety\\_2022-3-3\\_for\\_publication.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/order_re_racetrack_safety_2022-3-3_for_publication.pdf).

Commission by September 27, 2023.”<sup>8</sup> The Authority has reviewed all of its existing rules and this submission was the first to be filed in accordance with the March 27, 2023, Order.

On April 29, 2023, for the first draft of the Rule 2100 modifications, and on May 9, 2023, for the first draft of the Rule 2200 modifications, HISA representatives shared a draft of these proposed rule modifications with the following interested stakeholders for input: Racing Officials Accreditation Program; Racing Medication and Testing Consortium (Scientific Advisory Committee); Water Hay Oats Alliance; National Thoroughbred Racing Association; The Jockey Club; The Jockeys’ Guild; Thoroughbred Racing Association; Arapahoe Park; Rillito Downs; Thoroughbred Owners of California; California Horse Racing Board; Kentucky Racing Commission; Delaware Racing Commission; Maryland Racing Commission; National Horsemen’s Benevolent and Protective Association; Thoroughbred Horsemen’s Association; Thoroughbred Owners and Breeders Association; Kentucky Thoroughbred Association; American Association of Equine Practitioners; American Veterinary Medical Association; Stronach Racing Group (5 thoroughbred racetracks); Churchill Downs (6 thoroughbred racetracks); Breeders’ Cup; Keeneland; Del Mar; and the Racing Operations Committee.

Additionally, both drafts of the proposed modifications were made available to the public for review and comment on the HISA website at <https://hisaus.org/>. On July 24, 2023, for the second draft of the Rule 2100 modifications, and on July 30, 2023, for the second draft of the Rule 2200 modifications, HISA representatives shared a draft of these proposed rule modifications with the interested stakeholders set forth above for input. On July 24, 2023, the revised Rule 2100 modifications were made available to the public for review and comment on the HISA website at <https://www.hisaus.org/>. On July 31, 2023,

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<sup>8</sup> FTC, Order Approving the Anti-Doping and Medication Control Rule Proposed by the Horseracing Integrity and Safety Authority at 6 (Mar. 27, 2023), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/P222100CommissionOrderAntiDopingMedication.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P222100CommissionOrderAntiDopingMedication.pdf).

the revised Rule 2200 modifications were made available to the public for review and comment on the HISA website at <https://www.hisaus.org/>. Voluminous comments were received from various stakeholders, which are outlined in Item II of this publication. Attached to this publication is Exhibit A, which includes copies of all comments received concerning the rule modification proposal.

In accordance with the Commission’s March 27, 2023 Order, the Authority’s submission in support of the proposed rule modification discusses each of the suggestions made by commenters on the *Federal Register* from the original Racetrack Safety Rule submission where the Authority in its February 2, 2022 letter to the Commission<sup>9</sup> (the “February 2, 2022 Letter”) committed to further consider the suggestions. In accordance with the Order, Item III below sets forth the relevant comments and states the reasons why the Authority did or did not adopt the suggestions within the text of the proposed rule modification.

The Authority’s Rule 2000 safety rules were implemented in racing jurisdictions nationwide on July 1, 2022. Since that time Covered Horseraces have been successfully conducted under a uniform set of rules devoted to equine and human health and safety, and that serve to ensure that horseracing under the jurisdiction of the Authority is conducted in the safest manner possible. Since July 1, 2022, the Authority has closely observed the rules in action, the Authority staff have engaged on a daily basis with the implementation of the rules, and many helpful comments have been received from members of the industry concerning the numerous aspects of the rules. Throughout this process, the Authority has been careful to focus on the further development and modification of various rules to enhance racetrack safety and welfare. After much study and analysis under the direction of the Authority’s Racetrack Safety Committee, the

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<sup>9</sup> This letter is available on the docket for the 2022 Proposed Rule Notice at <https://www.regulations.gov/docket/FTC-2021-0076/document>.

Authority now submits this proposed modification to the Rule 2000 Series. The submission consists of a comprehensive set of modifications to many of the rules, as described in detail in this publication. In some instances, modifications are proposed to include more detail concerning a regulated activity, or to create new instrumentalities to further the purposes of the Act (as in the creation of the concept of Designated Equine Facilities in Rule 2144). In other instances, modifications are proposed to address unanticipated circumstances encountered in the implementation of the rules, or to provide clarity where questions have surfaced concerning the proper implementation of the rules in various situations. The reasons for the modifications, and any problems the modifications are intended to address and resolve, are outlined in the discussion of each particular rule modification.

In general, the Authority states that the rule modifications will affect Covered Horses by ensuring that races are run on safe racing surfaces and with properly inspected equipment and highly trained racetrack personnel; these matters are examined by the Authority's accreditation team pursuant to the Rule 2100 series. Numerous modifications are proposed for the accreditation rules to ensure timely and accurate reporting of information. In addition, Covered Horses will be affected by and benefit from procedures implemented to ensure the timely and accurate reporting of equine injuries and fatalities, rule modifications pertaining to veterinary examinations, the veterinarian's list, horseshoe inspections, and the performance of necropsies. These are only a few examples; all of the modifications are described further in this publication.

Covered Persons will be affected by and benefit from the proposed rule modifications as well. A chief example, and a matter of particular concern to the Authority, are the measures taken to safeguard the safety of Jockeys and other riders on the racetrack grounds. This publication will outline in detail the significant modification of provisions concerning Jockey concussion protocols, physical examinations, and human

ambulance support.

Covered Horseraces will be affected by and benefit from the modifications in additional ways as described herein. The efficient running of claiming races will be much enhanced by the modifications to the claiming rules set forth in Rule 2262.<sup>10</sup> The prompt and efficient resolution of violations of the rules of racing will be enhanced by modifications to the riding crop rules and penalty structure, as well as the establishment of an intermediate appeal process that will hasten the resolution of riding crop violations. When the rules of racing are strongly enforced, Covered Horseraces will be run in a safe manner that directly affects and benefits both Covered Horses and Covered Persons.

The Authority is always open to comments from industry participants, and in the development of rule modifications, these comments have often led to the consideration and adoption of alternatives in the proposed rule drafts circulated to the industry. In the numerous instances in which alternatives to the proposed modifications were considered, this publication will describe the proposals and state the reasons why a proposal was adopted or rejected by the Authority, or in some cases deferred for future consideration.

The Authority states that the proposed rule modifications in this submission are consistent with the Act. The proposed rule modifications meet the requirements in 15 U.S.C. 3056(b), because the modifications are made to the originally filed safety rules that were crafted upon and established the 12 elements of the horseracing safety program as enumerated in 15 U.S.C. 3056(b). The new provisions that are established in these proposed rule modifications are also within the ambit of the elements of the horseracing safety program. Furthermore, the Authority incorporates by reference into this modification the existing standards that were set forth in the Notice of Filing of Proposed Rule previously submitted to the Commission in the original filing of the Rule 2000

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<sup>10</sup> A "Claiming Race" is defined in HISA Rule 1020 as a Covered Horserace in which a Covered Horse, after leaving the starting gate, may be claimed (or, purchased for a designated amount) in accordance with the rules and regulations of the applicable State Racing Commission.

Series on December 6, 2021.<sup>11</sup> As was the case then, and pursuant to 15 U.S.C. 3056(a)(2), the rule modifications herein take into consideration existing safety standards, including the National Thoroughbred Racing Association Safety and Integrity Alliance Code of Standards, Association of Racing Commissioners International (“ARCI”) Model Rules, the International Federation of Horseracing Authority’s International Agreement on Breeding, Racing, and Wagering, and the British Horseracing Authority’s Equine Health and Welfare program.

With the review, input and ultimate approval of the Authority’s Board of Directors, the proposed modifications to the Rule 2000 Series modify and enhance the penalties and adjudication procedures for the enforcement of rules promulgated by the Authority. The Authority submits herewith the proposed rules for Commission approval.

#### **b. Statutory Basis**

The Horseracing Integrity and Safety Act of 2020, 15 U.S.C. 3051 through 3060.

## **II. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Modification**

### **Rule 2010. Definitions**

#### **a. References to Corresponding Definition in Rule 1020**

Various definitions currently established in Rule 2010 are also referenced in Rule 1020 of the ADMC Program Rules. The following definitions have been modified to reference the corresponding definition in Rule 1020, for consistent usage throughout the Authority’s Rules: Act, Adverse Analytical Finding, Association Veterinarian, Attending Veterinarian, Authority, Claim, Claiming Race, Commission, Covered Horse, Covered Horserace or Race, Covered Person, Designated Owner, Owner, Person, Prohibited List, Prohibited Methods, Prohibited Substance, Protocol, Race Day, Regulatory Veterinarian,

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<sup>11</sup> This supporting documentation is available on the docket for the 2022 Proposed Rule Notice at <https://www.regulations.gov/docket/FTC-2021-0076/document>.

Responsible Person, State Racing Commission, Timed and Reported Workout, Trainer, Training Facility, Veterinarian, Vets' List Workout, and Workout.

**b. Proposed New Definitions**

The Authority proposes to add several new terms to the definitions section in Rule 2010 to aid in the proper interpretation and application of the Authority's existing and proposed new rules included in the Rule 2100 and Rule 2200 Series of the Racetrack Safety Rule. The proposed new definitions are set forth below.

*Catastrophic Injury* means an Equine Injury that resulted in death or euthanasia of a Covered Horse within 72 hours of injury.

A commenter requested that the definition of *Catastrophic Injury* be broadened to include both sickness and accidents, and that it specifically incorporate the concept of sudden death, maintaining that sudden death is not an "injury."<sup>12</sup> The Authority believes the proposed modification in its current form is appropriate, but will consider this comment in further deliberations upon rulemaking.

*Designated Equine Facility* means an equine facility designated by a Racetrack in accordance with the procedures established in Rule 2144, whose biosecurity protocols are consistent with those of the Racetrack, and from which the Racetrack will accept horses onto its grounds with a valid health certificate issued within the last 30 days or in a shorter period of time if high risk situations dictate.

This term was modified significantly over the two rounds of informal public comment. The original draft stated that the required biosecurity protocols be "reasonably consistent," but in response to comment the definition was revised to require the protocols to be "consistent."<sup>13</sup> The same commenter suggested that the protocols be specified in the rule.<sup>14</sup> The Authority declines to adopt this suggestion, as it is incumbent

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<sup>12</sup> California Horse Racing Board ("CHRB").

<sup>13</sup> The Jockey Club.

<sup>14</sup> The Jockey Club.

upon the Racetracks to apply and review the appropriate biosecurity protocols.

Several commenters suggested that the definition should be written to give the state racing commission the duty to approve the designation by the Racetrack.<sup>15</sup> The Authority considered this comment, but declined to adopt the idea because not all state racing commissions have a process in place to review and approve designated equine facilities.

Some commenters stated that no health certificate should be required for horses that ship to a Racetrack from training facilities owned by the Racetrack, and that to impose this requirement places an undue burden on horsemen, attending vets, and stable gate personnel.<sup>16</sup> The Authority on balance does not consider the requirement to be an undue burden when weighed against the health and safety of Covered Horses.

*Epistaxis* means that blood from one or both nostrils of a Covered Horse has been observed after exercise, attributable to an episode of exercise-induced pulmonary hemorrhage (“EIPH”). The term Epistaxis is referred to in numerous places in the Rule 2000 Series, and especially in Rules 2240 and 2241 concerning the Veterinarians’ list. This definition will make it clear that the only horses subject to regulatory action are those experiencing EIPH to the degree they show signs of Epistaxis. The definition of the term *Bled* will be deleted in this rule modification.

*Equine Injury* means an injury to a Covered Horse that occurred during racing or training for which intervention by the Regulatory Veterinarian or reporting by the Safety Director pursuant to Rule 2131 is required, and for which an injury report must be submitted pursuant to the Rule 2000 Series.

A commenter asked whether entering injury information into the Equine Injury

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<sup>15</sup> The Jockey Club, Tom Robbins, Racing Operations Committee (“ROCO”).

<sup>16</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

Database is sufficient to satisfy the reporting requirement.<sup>17</sup> In answer, the Authority notes that it is sufficient if the Racetrack shares with the Authority information entered into the Equine Injury Database; however, not all Racetracks do so. The Authority does not believe the filing of an injury report is unduly burdensome but will consider this possible concept in future rulemaking.

A commenter opined that the definition is too broad and that the definition should apply to horses whose participation in racing or training has been restricted, in a manner similar to the definition of human injury.<sup>18</sup> The Authority notes that drafting the definition in a manner similar to the Human Injury definition would actually broaden the definition to include conditions that might temporarily restrict a horse's participation but are not reportable. The reporting obligation in the proposed rule is more appropriately keyed to intervention by the Regulatory Veterinarian or reporting by the Safety Director.

*Equine Mortality* means a fatality of a Covered Horse that is not attributable to a Catastrophic Injury.

This definition is added to facilitate the distinction between Equine Mortality and Catastrophic Injury, which is used in prescribing the duties of the Racetrack Risk Management Committee in new provisions proposed to be added in Rule 2112.

*Exercise Rider* means a rider of a Covered Horse during a training activity that is not a Covered Horserace.

The defined term is included in the application of several proposed rules that are necessary to regulate the safety and conduct of persons mounted on horses on the grounds of the Racetrack.

*Farrier* means a farrier (or horseshoer, plater or blacksmith) who provides all aspects of hoof care or orthotic services to Covered Horses, including trimming and/or

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<sup>17</sup> I/ST Racing.

<sup>18</sup> Thoroughbred Owners and Breeders Association, and Mid-Atlantic Strategic Plan to Reduce Equine Fatalities (collectively, "THA").

the application of various orthotics to the hoof.

This new definition is added to define the term as used in proposed new Rule 2138 and elsewhere in the proposed rules.

*Horseshoe Inspector* means a person (for example, a paddock farrier) employed, contracted, or appointed by a State Racing Commission, Racetrack, or the Authority, who has been trained in, and is responsible for, inspecting horseshoes or other orthotics on hooves of Covered Horses.

This definition establishes the new position of Horseshoe Inspector, who will inspect horseshoes under new rules of the Authority. These inspections are a vital component in ensuring the health and safety of Covered Horses.

A commenter asked if the qualifications of the horseshoe inspector can be defined.<sup>19</sup> The Authority believes that it is unnecessary to prescribe at length the specific qualifications of the Horseshoe Inspector and further notes that minimum qualifications for this position are set out in Rule 2137(b). The Authority exercises oversight over personnel performing functions on its behalf that allows the Authority to ensure that personnel are qualified to perform their duties.

*Human Injury* means an injury to a Covered Person that requires medical attention and, as a result, may restrict a Covered Person's current or future participation or employment in racing, and for which an injury report must be submitted.

The Authority adopted the suggestion that the definition refer to current or future participation in racing.<sup>20</sup>

In line with another commenter's query as to the extent of the persons who are embraced by the rule, the word "individual" was replaced by "Covered Person."<sup>21</sup> The

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<sup>19</sup> National Horsemen's Benevolent and Protective Association ("HBPA").

<sup>20</sup> Breeders' Cup.

<sup>21</sup> HBPA.

commenter also asked who must submit the report.<sup>22</sup> A commenter suggested the term “may restrict,” since at the time of the report the effects of the injury may not be known. This phrase was incorporated into the definition.<sup>23</sup>

*Layoff Report* means a report completed in a manner prescribed by the Authority and submitted by the Trainer or Trainer’s designee for a Covered Horse that has not raced in a Covered Horserace for 150 consecutive days or more. The Layoff Report shall include, at a minimum, information regarding all examinations, medical treatments, surgical treatments, and exercise history of the Covered Horse during the layoff period.

This definition is added to define the term Layoff Report in accord with the new provision creating the obligation to provide Layoff Reports in Rule 2142(a).

A commenter asked whether the Authority already has all of the information included in the definition of Layoff Report.<sup>24</sup> The Authority does not have all of the information; during a typical layoff period, much of the information is not subject to the Authority’s reporting requirements. Another commenter queried concerning the length of time over which records will be required to be provided, suggesting that a period of 30 days prior to submission should be sufficient.<sup>25</sup> In response, the Authority notes that the Rule requires reporting “in a manner prescribed by the Authority,” and the Authority will specify a reasonable span of time for which the information is requested.

*Outrider* means a rider employed or contracted by the Racetrack who oversees and assists with the safety of all Riders, Trainers, and horses on the Racetrack.

The definition is added because various rules govern the responsibilities and duties of Outriders.<sup>26</sup>

*Pony Horse* means a horse, including the Outrider’s horse, that accompanies a

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<sup>22</sup> HBPA. The Medical Director must submit the report under Rule 2132.

<sup>23</sup> CHR.B.

<sup>24</sup> The Jockey Club.

<sup>25</sup> THA.

<sup>26</sup> NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing made helpful suggestions to the wording, including the inclusion of the reference to “contracted by.”

Covered Horse(s) during training or racing activities.

This definition is added because various new provisions create rules governing Pony Horses and racehorses in the same manner.<sup>27</sup>

*Racetrack Risk Management Committee* means the committee established pursuant to Rule 2121.

This definition is added in order to change the name of the Racetrack Safety and Welfare Committee to the Racetrack Risk Management Committee. The term Racetrack Safety and Welfare Committee has caused confusion due to its similarity to the term Racetrack Safety Committee.

*Racetrack Safety Committee* means the committee (or its delegate) established pursuant to 15 U.S.C. 3052(c)(2).

The definition is modified to include the words “or its delegate,” which is necessary to specify that the Racetrack Safety Committee has the power to delegate certain responsibilities and duties to other functionaries under the supervision of the Racetrack Safety Committee.

*Rider* means any person who is mounted on a Covered Horse or Pony Horse on the Racetrack, including a Jockey.

This definition is proposed in order to cover in one term the various racing participants who are mounted on Covered Horses or Pony Horses on the Racetrack. Several proposed rules and modifications refer to all such participants, who are now referred to as Riders. For the sake of clarity, the definition explicitly states that the term Rider includes Jockeys.

*Safety Program Effective Date* means July 1, 2022.

*Traction Device* means any device that extends beyond the ground surface of the

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<sup>27</sup> NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing offered a helpful suggestion which resulted in the inclusion of a reference to the Outrider’s horse.

horseshoe and includes but is not limited to inserts, wear plates, rims, toe grabs, bends, jar calks, stickers, ice nails, frost nails, and mud nails.

A definition of Traction Device is added which aids in the proper interpretation of the Rule 2276 Horseshoe Rule. Traction devices have been thought to increase a horse's ability to "dig in" to the track surface to enhance propulsion and to prevent slipping. Traction devices also reduce the horse's ability to plant its hoof level with a hard surface and to dampen forces from the ground to the limb by inhibiting hoof movement through the surface. These effects can contribute to catastrophic musculoskeletal injuries. Rule 2276 follows scientific evidence that toe grab traction devices are associated with equine catastrophic injuries and appropriately limits the height of rims used as traction devices on forelimb and hindlimb horseshoes. The rule prohibits use of any other traction devices.

*Veterinarians' List* means a list maintained, or approved for use, by the Authority of all Covered Horses that are determined to be ineligible to compete in a Covered Horserace in any jurisdiction until released by a Regulatory Veterinarian.

This definition is added to define the Veterinarians' List more clearly. The term is used extensively in conjunction with Rules 2240, 2241, and 2242, and aids in the application of those rules. A commenter suggested inclusion of the phrase "approved for use," as it appears in the modification.<sup>28</sup> The phrase is used to allow for flexibility in the event that the Authority does not itself maintain the list, but instead at some point in time utilizes a list maintained by another organization pursuant to an agreement with the Authority.

### **c. Additional Proposed Modifications**

The Authority proposes additional modifications to the definitions as set forth below:

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<sup>28</sup> The Jockey Club.

*Groom* means a Covered Person who is engaged by a Responsible Person to assist in the daily physical care of Covered Horses.

*Jockey* means a rider licensed in any state and registered with the Authority to ride a Covered Horse in a Covered Horserace.

The Jockeys' Guild requested that the rule specify the rider of a Covered Horse in a Covered Horserace "or during training." The request is understandable but unnecessary, as the rule only requires licensure and registration of the rider; the definition does not exclude Jockeys from the ambit of the Authority's regulatory provisions simply because an activity occurs during training hours rather a horse race.<sup>29</sup>

*Starting Gate Person* means any individual licensed as a starter, assistant starter, or any individual who handles Covered Horses in the starting gate.

*Veterinarian* shall have the meaning set forth in Rule 1020. Notwithstanding any provision set forth in the Rule 9000 Series (Registration Rules), a Veterinarian who provides veterinarian services to Covered Horses shall register with the Authority.

The definition is modified to state that it has the meaning set forth in Rule 1020. In addition, a new sentence is added that requires Veterinarians who provide services to Covered Horses to register with the Authority. The safety and welfare of Covered Horses are of paramount concern to the Authority, and it is vital that information concerning any treatment rendered to Covered Horses be provided to the Authority, along with the identity of, and contact information for, the Veterinarian who has treated the Covered Horse. Registration of Veterinarians with the Authority is the most effective means to obtain the required information.

The following list contains those definitions that are modified with only a change in the form of the citation:

*Lead Veterinarian* means any Veterinarian appointed pursuant to Rule 2134(c).

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<sup>29</sup> The Jockeys' Guild.

*Racetrack Safety Accreditation or Accreditation* means the process for achieving, and the issuance of, safety Accreditation to a Racetrack in accordance with Rules 2100 through 2193.

Finally, the Authority proposes deletion of the following definitions as unnecessary: Out of Competition, Program Effective Date, and Racetrack Safety and Welfare Committee.

### **2015. Racehorse Epidemiology Database and Study**

The Horseracing Integrity and Safety Act mandates that the Authority, in consultation with the Federal Trade Commission, develop and maintain a nationwide database of racehorse safety, performance, health, and injury information for the purpose of conducting an epidemiological study. 15 U.S.C. 3056(c)(3)(A). The Act further provides that “the Authority may require covered persons to collect and submit to the database described in subparagraph (A) such information as the Authority may require to further the goal of increased racehorse welfare.” *Id.* at (c)(3)(B). The Authority proposes this rule in connection with its statutory mandate under the Act.

This proposed new rule identifies all sources of records and data that will be collected by the Authority for purposes of developing the nationwide database referenced in section 3056 of the Act. The majority of sources identified in this rule are references to other existing rules in the Racetrack Safety Rule under which the Authority is already receiving pertinent information and do not contain new, separate reporting obligations on Covered Persons. Paragraph (c), however, does require, upon the written request of the Authority, Racetracks to provide historical equine injury and fatality data for the previous 10 years from the date of the request. One commenter questioned whether the Authority has the statutory authority to request information and records that pre-date the Act.<sup>30</sup> In response, the Authority states that access to this historical information “furthers the goal

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<sup>30</sup> Dr. Jeff Blea.

of increased racehorse welfare” as it will aid in the Authority’s research and understanding of the patterns and trends relative to racehorse injuries and fatalities. Additionally, the information will be used to initially develop the database which will expedite the research process. Other commenters<sup>31</sup> noted that some of the information referenced in this rule is already being captured and collected through other non-Authority sources, such as the InCompass database. These commenters are correct and, where applicable, the Authority does receive information directly from these third-party sources, obviating the concern of duplicative reporting.

## **2100. Racetrack Accreditation**

### **2101. General**

Language in this rule concerning the adoption of best practices and guidance by the Racetrack Safety Committee has been stricken as unnecessary.

### **2110. Accreditation Process**

### **2111. Interim and Provisional Accreditation**

No significant modifications are being proposed with regard to this rule; minor modifications to terms used have been made.

The Jockeys’ Guild expressed concerns about the granting of “interim accreditation” to Racetracks prior to HISA performing an assessment under Rule 2112. The Jockey Club noted that the delay could result in unaddressed safety concerns for up to three years.<sup>32</sup> The Jockeys’ Guild also expressed concerns that the automatic granting of “interim Racetrack Safety Accreditation” by the Authority, and the length of time before the Authority is able to conduct an assessment of the track, might allow safety concerns to go unaddressed.<sup>33</sup> The Authority notes that these comments do not address

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<sup>31</sup> The Jockey Club, the Maryland Racing Commission, and comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>32</sup> The Jockeys’ Guild.

<sup>33</sup> The Jockeys’ Guild.

the modifications and concern provisions that have already been approved. Regardless, if safety concerns arise, the Authority may intervene by issuing a Notice of Suspected or Actual Violation. In the case of very serious hazards, provisional suspension under Rule 2117 also provides the Authority with the ability to address safety concerns rapidly in the interest of protecting Covered Horse and Riders.

### **2112. Accreditation Assessment**

Modifications are proposed in three paragraphs. Paragraph (a) is amended to require a Racetrack to respond to questions and inquiries posed by the Racetrack Safety Committee within a deadline established by the Committee, rather than within 60 days. This provides more flexibility in the time permitted to respond, in relation to the extent and nature of the questions and inquiries posed.

In addition, paragraph (c) is amended to require a Racetrack's response to a post-inspection report within 30 days, rather than 60 days. This change expedites the accreditation inspection and review process and will result in more rapid remedial action taken to cure any deficiencies in Racetrack operations or equipment. A commenter asked whether there will be a response from the Authority indicating that a Racetrack reporting submission has been received by the Authority.<sup>34</sup> The Authority is currently developing an IT modality that will confirm receipt of all submissions.

Finally, Paragraph (d) is amended to include a new sentence that permits the Racetrack Safety Committee to require a Racetrack, as a condition of accreditation, "to take any remedial or other action that is consistent with the Authority's safety rules and Accreditation standards established in the Rule 2100 Series and Rule 2200 Series." This provision provides greater flexibility in encouraging Racetracks to meet the accreditation requirements expeditiously, as an alternative to denying accreditation for non-compliance.

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<sup>34</sup> Tom Robbins.

### **2113. Issuance of Accreditation**

No significant changes are proposed for this rule. Minor changes to the language of the Rule are proposed for clarity.

### **2114. Effective Periods of Accreditation**

Rule 2114 in its current form establishes 3-year periods of accreditation, which may be modified to 1 to 7 years if the Authority determines that a modified period is consistent with the rules of accreditation. No significant changes are proposed for this rule. A “notwithstanding” clause is included in paragraph (a) to make clear that the 3-year period of accreditation is subject to the 1-to-7-year terms set forth in paragraph (b). Other minor changes to the language of the Rule are proposed for clarity.

### **2115. Racetrack Reporting**

Rule 2115 establishes reporting requirements for Racetracks. A new paragraph (a) provides more detail concerning annual reports to the Authority by Racetracks; the rule explicitly requires Racetracks to file a report within 30 days after the end of each race meeting, and, by December 31 of each year, to complete a Racetrack Safety Accreditation Audit. The audit is a key tool by which the Authority may monitor a Racetrack’s level of compliance with Authority rules.

An additional new provision, paragraph (g), requires Racetracks to submit a certified report to the Authority within 30 days of the end of each Race Meet. A commenter asked whether the information required in the end of Race Meet report can be prescribed in the rule.<sup>35</sup> The Authority prefers the current language in the rule, which states that the report shall be submitted “in such form as the Authority may prescribe.” This provides greater flexibility, and the Authority will outline in an appropriate form the precise information required, all of which will pertain to Racetrack safety matters and requirements as set forth in the rules of the Authority. Another commenter suggested that

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<sup>35</sup> Minnesota Racing Commission.

the deadline for the report should be 60 days rather than 30 days.<sup>36</sup> The Authority believes the 30-day requirement is appropriate and not burdensome, and notes that the end of meet report consists only of data reporting; no narrative composed by the Racetrack is required. The sooner the information is provided to the Authority after the end of the meet, the more likely it is to be accurate.

New proposed rules will require Racetracks to maintain a list of, and contact information for, key personnel at the Racetrack. Racetracks will also be required to authorize third party system providers who collect information regarding Covered Persons, Covered Horses, and Covered Racetracks to provide data upon request, and to authorize any video replay or video service provider to provide to the Authority upon request high-resolution video replays of Covered Horseraces at the Racetrack. These new provisions will ensure the Authority may access data relative to Covered Persons, Covered Horses, or Covered Horseraces that is submitted by the Racetrack to the third-party system provider (such as, fatality information submitted to the Equine Injury Database or video replays to be used for injury and fatality review). These new requirements will further the Authority's goal of increased racehorse welfare and aid in making accreditation determinations.

Finally, new provisions in the rule permit the Authority to obtain upon request information pertaining to accreditation or suspected violations of Authority rules. Tracks are also made subject to on-site inspection by the Authority at any time so that any suspected safety violation can be promptly investigated and addressed.

All of these modifications refine the reporting requirements in Rule 2115, so that the Authority possesses the information it needs to review Racetrack compliance and make appropriate decisions concerning Racetrack accreditation. The painstaking review of all aspects of Racetrack operations are of vital importance in securing the health,

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<sup>36</sup> Tom Robbins.

safety and welfare of Covered Horses and Covered Persons.

### **2116. Suspension and Revocation of Accreditation**

Rule 2116 establishes the procedures for situations in which a Racetrack is in material non-compliance with the Accreditation requirements. In addition to stylistic changes, a new provision is added which states that the Authority may consider all factors that it deems important, including factors established in Rule 8360(e)(1)-(5).

Commenters suggested that the factors for material non-compliance should be clearly established in the rules.<sup>37</sup> The Authority prefers to leave “material non-compliance” as an open term; the circumstances under which a Racetrack might be in material non-compliance are many and varied, and difficult to anticipate and articulate in their entirety in a rule. In response, however, the Authority proposed new language clarifying that the Authority shall consider all factors that it deems appropriate, including the factors established in Rule 8360(e)(1)-(5).

### **2117. Provisional Suspension of Racetrack Accreditation**

Rule 2117, Provisional Suspension of Racetrack Accreditation, is a new proposed rule. This provision permits the Authority to suspend racing activity in a short period of time if “the Authority has reasonable grounds to believe that the conditions or operations of a Racetrack present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the Racetrack of the Authority’s Racetrack safety or accreditation rules.”<sup>38</sup>

Proposed Rule 2117 was distributed for public comment in July 2023. Since that time, the Authority has received numerous comments and has worked with industry stakeholders to address due process concerns that were raised during the informal public comment period. This proposed rule is the result of both collaboration with industry

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<sup>37</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>38</sup> Rule 2117(a)(1).

stakeholders and the Authority's input. Under this rule, the Authority may issue a show-cause notice concerning a provisional suspension of a Racetrack's accreditation if the Authority has reasonable grounds to believe that the conditions or operations of the Racetrack present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the Racetrack of the Authority's Racetrack safety or accreditation rules. The show-cause notice will include an itemization of the rules which the Racetrack is believed to have violated, the corrective actions suggested to achieve compliance, a request for a written response from the Racetrack, and a statement indicating that the Racetrack may request a provisional hearing within 3 business days of receipt of the notice. Notably, the Racetrack's accreditation would not be suspended during the time between receipt of the show-cause notice and the provisional hearing.

The Racetrack is afforded significant procedural due process protections under this rule; first at the provisional hearing stage and, later, at the final hearing. For instance, if the Racetrack requests a provisional hearing, the provisional hearing will be promptly held within 3 business days of receipt of the Racetrack's request for a hearing. The provisional hearing will be conducted by a 3-person panel consisting of 1 industry member of the Board, 1 independent member of the Board, and 1 member of the Arbitral Body selected by the Chair of the Board. The sole issue to be determined at the provisional hearing is whether the Racetrack's provisional suspension of Accreditation shall go into immediate effect following the provisional hearing, be stayed pending a final hearing under this rule, or be withdrawn. The burden is on the Authority to demonstrate good cause why the provisional suspension of the Racetrack's accreditation should go into immediate effect or be stayed pending a final adjudication. Within 7 business days of the conclusion of the provisional hearing, the 3-person panel will issue a written decision imposing an immediate provisional suspension of the Racetrack's accreditation, staying the provisional suspension, or dismissing the notice.

The Racetrack may seek prompt review of any decision rendered at the provisional hearing by requesting a final hearing, which will take place within 14 calendar days of the Racetrack's request for a final hearing. The final hearing will be conducted by a quorum of the Board and the 2 Board members who participated in the provisional hearing will be precluded from participating in the final hearing. The final hearing will be conducted pursuant to the procedural rules established in Rules 8340(d) through (j), which provide for a full presentation of evidence and place the burden on the Authority to demonstrate, by a preponderance of the evidence, that the Racetrack is in violation of the Accreditation rules.

Within 7 business days of the conclusion of the final hearing, the Board may (1) order that the Racetrack's accreditation be reinstated, suspended, or revoked; (2) reinstate accreditation subject to any requirements the Board deems necessary to address the specific safety violations; and/or (3) impose a fine in an amount not to exceed \$50,000.

The outcome of the final hearing of the Authority will be considered a final civil sanction subject to appeal and review in accordance with the provisions of 15 U.S.C. 3058.

#### **2120. Accreditation Requirements**

#### **2121. Racetrack Risk Management Committee**

The title of the Committee has been changed to Racetrack Risk Management Committee. As noted in several comments, the previous title, the Racetrack Safety and Welfare Committee, was sometimes confused with the Racetrack Safety Committee established by the Act.

The Rule sets forth the composition of the Committee. Revisions are proposed which rename several positions; the term "Horsemen's representative" has been replaced by "Owners' representative" and "Trainers' representative," as Owners and Trainers are often collectively referred to as "Horsemen."

The Racetrack may alter the composition of the Racetrack Risk Management Committee, if approved by the Racetrack Safety Committee. This allows the Racetrack to adapt the structure of the Racetrack Risk Management Committee to well-functioning structures already in place in states such as California.<sup>39</sup>

The current rule specifies the responsibilities of the Racetrack Risk Management Committee in paragraph (c); several modifications clarify terminology and duties. New provisions require interviews of witnesses to be conducted in the case of Human Injury, and to interview Racetrack personnel when appropriate in the review of Catastrophic Injuries and Equine Mortalities. In addition, the Rule expands upon current language to specify that the Racetrack Risk Management Committee must file a certified end of meet report, with attached meeting minutes, within 60 days of the end of a race meet of fewer than 60 days (this is separate from the Racetrack's obligation to submit an end of meet report 30 days after the meet). Quarterly reports are required for race meets of 60 days or more. The Racetrack Safety Committee will specify the contents of the post-meet report, in response to a commenter who queried concerning the contents of the report.<sup>40</sup>

A new paragraph (b)(2) clarifies that the Regulatory Veterinarian shall chair the Racetrack Risk Management Committee, unless there is no agreement between the Authority and the State Racing Commission. If there is no agreement, a Lead Veterinarian shall be appointed by the Racetrack and shall chair the Racetrack Risk Management Committee, and the cost of this position will be funded by the Racetracks.

The purpose of the Racetrack Risk Management Committee is to review, with the input of members from multiple disciplines, information and occurrences relevant to equine and human safety. This allows the Racetrack Risk Management Committee to take action to improve safety at the Racetrack. The purpose of the Racetrack Risk

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<sup>39</sup> Prompted by a comment from the CHRB.

<sup>40</sup> Minnesota Racing Commission.

Management Committee is not to impose discipline upon Covered Persons, but rather to facilitate the process of discussion, risk analysis, education and implementation of strategies for injury prevention.

A commenter asked whether all of the members of the committee are required to perform all of the responsibilities outlined in 2121(c).<sup>41</sup> Another commenter expressed concern that provision was not being made for small groups.<sup>42</sup> As noted above, a Racetrack may alter the composition of the committee upon approval of the Racetrack Safety Committee. The Authority further notes that the rule does not require the Safety Director to perform all of the work of the Committee; the various members of the Committee will perform much of the work. The role of the Safety Director is to oversee the Committee's work to make sure that the work is performed in a coordinated manner, and to provide assistance and additional resources where necessary to ensure the tasks of the Committee are thoroughly and efficiently performed. It is anticipated that members of the Committee may perform as sub-groups to assist in accomplishing the Committee's various duties and tasks.

A commenter suggested that Starting Gate Persons and Track Superintendents should be among those persons required to be interviewed after a Catastrophic Injury or Equine Mortality.<sup>43</sup> The Authority notes that such interviews are covered by the rule, with flexibility to adjust for individual cases; the rule currently requires interviews when appropriate with "Racetrack personnel."

Commenters opined that an attending veterinarian should be a member of the committee.<sup>44</sup> The Authority believes the committee is best served by the membership of the Regulatory Veterinarian or Association Veterinarian.

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<sup>41</sup> HBPA.

<sup>42</sup> CHR.B.

<sup>43</sup> The Breeders' Cup.

<sup>44</sup> THA, Dr. Scott Hay.

## **2130. Required Safety Personnel**

### **2131. Safety Director**

Rule 2131 concerning the Safety Director is modified in several provisions in addition to minor clarifications of terminology. The most significant change is the new provision, establishing a new responsibility for the Safety Director: “(c)(4) Establishing a formal protocol by which health, safety, and welfare issues are reported, investigated, and resolved by the Racetrack. The protocol shall address coordination between racetrack management, Veterinarians, safety stewards, and Stewards, so that all persons involved have a clear understanding of their roles and further action may be taken where appropriate.” This provision tasks the Safety Director with creating a comprehensive protocol that systematizes the methods by which health, safety and welfare issues are addressed and resolved. The provision also requires that the protocol address vital issues concerning how the various officials will cooperate in addressing issues. The protocol ensures that officials may work together in a pre-determined and coordinated way, rather than in an ad hoc manner with no consistent approach.

Commenters have expressed concern that the Safety Director cannot perform all of the duties set forth in the rule.<sup>45</sup> The rule, however, does not require the Safety Director to perform all of the work of the Committee; the various members of the Committee will perform the work in collaboration. The role of the Safety Director is to oversee the Committee’s work to make sure that the work is performed in a coordinated manner, and to provide assistance and additional resources where necessary to ensure the tasks of the Committee are thoroughly and efficiently performed. In response to a comment expressing concern about the Safety Director’s oversight of Regulatory and

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<sup>45</sup> The Jockeys’ Guild and a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

Association Veterinarians,<sup>46</sup> the Authority emphasizes that the veterinarian's prerogative and medical judgment of equine welfare issues will not be limited or constrained by the Safety Director.

Paragraph (c)(8) is modified to state that the Safety Director shall be responsible for: "(8) Report[ing] all equine injuries that required equine ambulance assistance and fatalities to the Racetrack's Risk Management Committee and the Authority within 72 hours of an injury, and within 24 hours of a fatality[.]" The provision, suggested by a commenter,<sup>47</sup> more precisely limits the reporting of equine injuries to those that required ambulance assistance, rather than minor injuries that do not require extensive medical care. The provision also now requires that equine fatalities be reported to the Racetrack Risk Management Committee and the Authority within 24 hours. The reporting of equine fatalities is vital to ensure that Racetrack officials may take prompt action to determine the cause of fatalities and take action to mitigate the possibility of further injuries to Covered Horses on Racetrack grounds. It is important to note that the reporting requirement does not require the filing of a written report; verbal notification satisfies the initial 24-hour reporting requirement.

A commenter asked whether the Safety Director will also be responsible for emergency drills concerning, for example, weather-related events.<sup>48</sup> In response, the Authority notes that the Safety Director is not charged with personally directing emergency drills, but is charged with the oversight function of ensuring that the drills are conducted pursuant to Rule 2161.

A commenter urged that the Equine Injury Database be used for the reporting of equine injuries within 24 hours of a fatality, and 72 hours of an injury.<sup>49</sup> The

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<sup>46</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing.

<sup>47</sup> Tom Robbins.

<sup>48</sup> Breeders' Cup.

<sup>49</sup> The Jockey Club.

veterinarians do not have to report to both the Equine Injury Database and the Authority, provided the Racetracks permit the Authority to access the Equine Injury Database. If the Racetrack does not permit access, the reporting must be made directly to the Authority in addition to the Equine Injury Database.

### **2132. Medical Director**

There are several significant additions to Rule 2132. Rule 2132 is modified with the following language: “The Medical Director shall be either a licensed physician, a board-certified athletic trainer, or an individual qualified to perform the duties and responsibilities set forth in this Rule with the assistance of the Authority’s National Medical Director.” While the engagement of a licensed physician is ideal, this is not possible at this time at some Racetracks. The rule allows, for example, a qualified medical provider (such as a nurse practitioner) to perform the duties of the Medical Director, with the proviso that the Medical Director shall have the assistance of the Authority’s National Medical Director in performing the duties.

An additional significant provision is added to the duties of the Medical Director. The provision states that the Medical Director shall: “(c)(3) Require notification of Human Injuries during racing or training to the Authority’s National Medical Director within 1 hour of transport of the individual(s) from the scene of the injury.” This rule will enhance the safety of Riders by ensuring that HISA’s National Medical Director is informed of Human Injuries very quickly, so that the Medical Director can assist in providing any services needed by the Rider or the medical responders. A commenter questioned whether 1 hour was realistic, recommending 24 hours instead.<sup>50</sup> The Authority disagrees with this view, and notes that all the rule requires is “notification,” which can include verbal notification. No written report or communication is required to satisfy the 1-hour requirement.

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<sup>50</sup> Tom Robbins.

An early draft of Rule 2132 implied that all human injuries be reported under the rule. Commenters noted,<sup>51</sup> and the Authority agrees, that the reporting of all human injuries that occur at a Racetrack is impractical. The definition of Human Injuries was therefore modified to limit Human Injuries to those injuries requiring medical attention and that may restrict a Covered Person's current or future participation or employment in racing.

In the provision requiring the Racetracks to reimburse the Authority for the costs associated with the employment of the Medical Director, the clause that provides for the reimbursement to be based on "total handle wagered in the applicable state in the prior calendar year" has been removed. This change is made to conform to substantive changes in the Authority's Rule 8500 Series concerning the allocation of costs.

A provision is modified to state that the Medical Director shall "develop and implement a process for certifying a Jockey's fitness to resume riding." This clarifies that the Medical Director is not required to certify the Jockey's fitness to ride, but instead is charged with the development of the certification process.

A provision is modified to require the reporting of Human Injuries to the Racetrack Risk Management Committee and the Authority within 24 hours rather than the current requirement of 72 hours. This allows the Racetrack Risk Management Committee and the Authority's National Medical Director to review the factors contributing to the injury more rapidly.

Finally, a provision is added that requires the Safety Director to coordinate with the Authority's National Medical Director. This ensures effective coordination between these two officials in addressing Human Injuries.

### **2133. Stewards**

In Rule 2133, paragraph (b) is amended to state: "Unless the Authority determines

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<sup>51</sup> Tom Robbins, HBPA.

that the applicable individual is otherwise qualified, to qualify for appointment as a Steward, the appointee shall meet the experience, education, and examination requirements necessary to be accredited by [the Racing Officials Accreditation Program (“ROAP”).”

A commenter expressed opposition to the amended introduction, stating that it might undermine standards of racing experience.<sup>52</sup> The Authority understands the need for competent and experienced Stewards, and will carefully consider any individual who is not accredited by ROAP.

A commenter suggested that the term “or contracted with” should be added to Rule 2133(c), which concerns the contractual agreements entered into by the Authority and State Racing Commissions.<sup>53</sup> This change was made, so that Rule 2133(c) now reads as follows: “The requirements of Rule 2133 for any Steward employed by or contracted with a State Racing Commission are subject to the applicable State Racing Commission electing to enter into an agreement with the Authority.”

#### **2134. Regulatory Veterinarian**

Rule 2134 sets forth the requirements and duties concerning Regulatory Veterinarians at the Racetrack. A new proposed rule is added as paragraph (a) which requires Racetracks to ensure that that no fewer than 2 Regulatory Veterinarians (as defined in Rule 1020 and excluding test barn veterinarians) are present at the Racetrack during all live racing. Upon a request and a showing of undue hardship by the Racetrack, the Racetrack Safety Committee may permit a Racetrack to have 1 Regulatory Veterinarian present at the Racetrack during all live racing. Some commenters observed that the shortage of veterinarians nationwide will make it difficult for Racetracks to have 2 Regulatory Veterinarians present at the track.<sup>54</sup> The Authority recognizes that a

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<sup>52</sup> Dan Fick and ROAP.

<sup>53</sup> CHRB.

<sup>54</sup> ROAP, Washington Horse Racing Commission.

shortage exists, and in response to these concerns has added a provision allowing the Racetrack Safety Committee to permit a Racetrack to have 1 Regulatory Veterinarian present at the Racetrack upon a showing of undue hardship. The Racetrack Safety Committee will scrutinize any such request very carefully, and always with the safety of Covered Horses firmly in mind.

Other commenters questioned how a Racetrack can be charged with controlling the number of Regulatory Veterinarians on the grounds of the Racetrack.<sup>55</sup> In response, the Authority notes that Racetracks are permitted (and encouraged) to appoint a veterinarian to supplement the duties of the Regulatory Veterinarians and to comply with the requirement in proposed Rule 2134(a). Such veterinarians are referred to as “Lead Veterinarians” and have the same duties, obligations, and responsibilities of the Regulatory Veterinarians under these rules.

Paragraphs (b)(1) and (2) of this rule are modified to clarify that the Regulatory Veterinarians may be contracted or appointed by a State Racing Commission or the Authority, and that Regulatory Veterinarians need only be licensed to practice in the state in which the Regulatory Veterinarian is performing the duties established under the rule, if required in the applicable jurisdiction. A number of commenters expressed viewpoints concerning proposed amendments to this rule, weighing in favor of retaining the requirement that Regulatory Veterinarians must be licensed to practice in the state in which they perform their regulatory duties. The Rule is amended for greater flexibility in light of the nationwide veterinary shortage and accommodates the possibility that a jurisdiction might not require the Regulatory Veterinarians to be licensed by the state in which they perform regulatory duties, in which case no license is required. Of course, if the applicable jurisdiction requires the veterinarian to be licensed in the jurisdiction, this rule does not alter that requirement.

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<sup>55</sup> ROAP, Mike Hopkins, Joe Wilson.

Paragraph (b)(4) is amended to clarify that the Regulatory Veterinarian is restricted from prescribing “medications” for any Covered Horse within the applicable jurisdiction except in cases of emergency, accident, or injury. A comment had noted that Regulatory Veterinarians must be able to prescribe diagnostics; the term “medications” more precisely states the activity intended to be prohibited.<sup>56</sup>

Paragraph (c) contains changes to the provisions concerning the appointment of a Lead Veterinarian. In those jurisdictions where the state racing commission does not elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian, the Racetrack is required to appoint a Lead Veterinarian to carry out the duties, obligations, and responsibilities of the Regulatory Veterinarian under the rules. New language is added to this rule to clarify that even in jurisdictions where the applicable state racing commission does elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian, the Racetrack may still appoint a Veterinarian(s) to serve as the Lead Veterinarian(s) to supplement the duties of the Regulatory Veterinarian(s) and to comply with the requirements in Rule 2134(a). In both cases, the appointment of the Lead Veterinarian(s) is subject to the Racetrack Safety Committee’s approval.

A comment stated that the sharing of a Lead Veterinarian may be impractical in some states in which racing dates overlap.<sup>57</sup> In response, the Authority notes that nothing in the rule *requires* Racetracks within a state to share a Lead Veterinarian.

### **2135. Responsibilities and Duties of Regulatory Veterinarian**

Paragraph (a)(5) of this rule is revised to clarify that the Stewards retain the authority to scratch horses, upon receiving notification from the Regulatory Veterinarian that the horse is injured, ill, otherwise unable to compete due to a medical or health

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<sup>56</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>57</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

related condition, or poses a hazard to other horses or racing participants. This codifies pre-existing industry practice and is in accord with the preference of several commenters who opined that the Stewards should retain the ultimate authority to scratch horses.<sup>58</sup>

Paragraph (a)(7) is revised to clarify that, notwithstanding Rule 2220 (specifying that only Attending Veterinarians may attend to Covered Horses at any location under the jurisdiction of the State Racing Commission), a Regulatory Veterinarian may provide emergency medical care and effect case transfer to the Attending Veterinarian. This is necessary for the health and safety of Covered Horses. The addition of “training” is intended to cover emergency situations where an Attending Veterinarian is not present on the Racetrack grounds.

Paragraph (a)(9) is amended to state that the Regulatory Veterinarian must “report to the Safety Director and the Authority within 24 hours the names of all Covered Horses who are euthanized or which otherwise die at the meeting and the reasons therefor.” The addition of “and the Authority within 24 hours” is intended to facilitate prompt notice to the Authority of potentially emerging safety situations.

A commenter suggested that the reference to the Safety Director should be deleted from this rule.<sup>59</sup> The Authority prefers to retain the reference to the Safety Director because regular communication of safety and welfare issues with the Authority is expected and is in the best interest of equine safety and welfare.

Paragraph (a)(10) is modified as follows: “collaborate with the Safety Director, Chief Veterinarian of the State Department of Agriculture (or comparable State government official), Equine Disease Communication Center (EDCC), and other regulatory agencies to take measures to control communicable or reportable equine diseases.” This provision was developed while considering a comment that suggested the

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<sup>58</sup> ROAP, Tom Robbins, ROCO, Washington Horse Racing Commission.

<sup>59</sup> 1 S/T Racing.

inclusion of the “comparable State government officials” phrase, since states vary as to the specific state officials responsible for the communicable diseases.

Paragraph (b) is amended to clarify that a Regulatory Veterinarian may access Covered Horses on Racetrack grounds, perform inspections of Covered Horses, observe Covered Horses during training activities, and place a Covered Horse on the Veterinarians’ List. This codifies pre-existing industry measures intended to reduce the number of injured or at-risk horses participating in racing activities.

Paragraph (c) is modified to permit the Authority to retain additional veterinarians if it determines that the Regulatory Veterinarian identified in the agreement with the Authority requires additional assistance to perform the regulatory duties set out under these rules. The modification is necessary to address situations where a vacancy can be difficult to fill, especially as a stop gap measure, and the Authority may be able to deploy additional veterinary personnel in the short term.

Paragraph (d) is modified to clarify that the Regulatory Veterinarian identified in the agreement with the Authority or, if there is no Regulatory Veterinarian, the Lead Veterinarian has jurisdiction over all veterinarians within the grounds of the Racetrack. A commenter noted that jurisdiction over the Attending Veterinarian should be vested in the Association Veterinarian where there is no Regulatory Veterinarian filing such as role, as in the state of Florida.<sup>60</sup> In response, the Authority states that the Racetrack can appoint the Association Veterinarian as a Lead Veterinarian, which obviates the concern raised in this comment. However, only the Regulatory Veterinarian may review and consult with the Stewards and State Racing Commission regarding licensing applications under paragraph (d) of this rule.

### **2136. Racetrack Safety Officer**

Rule 2136 sets out the duties of the Racetrack Safety Officer. This rule contains

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<sup>60</sup> 1 S/T Racing.

minor modifications. The rule in paragraph (b) specifies the duties the Safety Officer must carry out, and modifies the prefatory sentence as follows: “The Safety Officer or the Safety Officer’s designee shall...” This phrase referring to the Safety Officer’s designee is added to make clear that the Safety Officer may designate other individuals to assist in the performance of the specified duties. This addition is in response to concerns expressed by a commenter that the Safety Officer’s duties are too expansive.<sup>61</sup> Under the modified rule, the Safety Officer may enlist assistance in the performance of the prescribed duties.

One of these duties, as set forth in paragraph (b)(5), is modified to state that the Safety Officer shall monitor ambulance and medical personnel protocols for Covered Horses and Riders in cooperation with the Medical Director. This addition is made to emphasize that the Safety Officer will monitor protocols in conjunction with, and with the benefit of, the medical knowledge and expertise of the Medical Director.

Finally, the rule is modified in (b)(8) to specify that the Safety Officer will conduct “HISA registration checks,” rather than “license checks;” the latter term is more applicable to State Racing Commission licenses, whereas registration is a function of the Authority under the Rule 9000 Series.

A commenter observed that the Safety Officer should “either participate in the creation of or be the sole individual to draft standard operating protocols for racetrack safety and equine welfare.”<sup>62</sup> The Safety Director is charged with the development of the protocols pursuant to Rule 2131(c)(4), but the Safety Officer under Rule 2136(b)(13) may make recommendations to Racetrack management and officials to ensure the safety and welfare of Covered Horses and Riders. The Safety Officer may certainly make recommendations concerning the protocols.

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<sup>61</sup> The Jockeys’ Guild.

<sup>62</sup> Jeanne Schnell.

**2137. Horseshoe Inspector; 2138. Responsibilities and Duties of Horseshoe Inspector; 2139. Horseshoe Inspections**

The Authority proposes a set of three new rules aimed at reducing equine injuries and riding-related incidents attributable to noncompliant horseshoes. The first rule, Rule 2137, establishes a requirement on Racetracks (or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority), to employ or contract with a Horseshoe Inspector (defined in Rule 2010) to perform the duties and responsibilities specified in Rule 2138. The Authority believes it is important to have a designated individual at each Racetrack responsible for inspecting horseshoes and ensuring compliance with the Authority's rules. Not all Racetracks currently have an individual who is solely responsible for inspecting horseshoes prior to racing.

Rule 2137 was originally circulated for informal industry comment in April 2023. That version of the rule required the Horseshoe Inspector to be licensed by the State Racing Commission. The Authority received a comment in response to this rule, noting that this is not a position which is licensed by State Racing Commissions.<sup>63</sup> The Authority believes that it is likely that the position will require licensure but has revised this rule to only require licensing if such licensing is required in the applicable jurisdiction. In addition to licensing, this rule requires the Horseshoe Inspector to be knowledgeable of matters pertaining to hooves, horseshoes, and the Authority's rules pertaining to these subjects. The rule also includes a continuing education requirement for Horseshoe Inspectors.

The second rule, Rule 2138, sets out the specific responsibilities and duties of the Horseshoe Inspector – that is, conducting inspections of horseshoes and other orthotics on all Covered Horses entered in a Covered Race on Race Day and notifying the

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<sup>63</sup> HBPA.

Stewards of any Covered Horse that is shod with horseshoes that are not compliant with the Authority's rules. The rule instructs the Horseshoe Inspector to perform additional inspections if requested by the Steward. Involving Stewards in this process provides an additional safeguard as they have the authority to scratch a Covered Horse from a race. Reducing the number of Covered Horses competing with noncompliant shoes will lead to fewer Racetrack incidents and injuries and enhance the overall safety of Covered Riders and Covered Horses.

Finally, Rule 2139 contains the process for pre-race horseshoe inspections. The rule specifies that the trainer of each Covered Horse must present the Covered Horse for inspection on the day of the race and that the Horseshoe Inspector's inspection must include, at a minimum, identification of the Covered Horse and examination of the horseshoe and other orthotics and documentation of features relating to a violation of horseshoe rules of the Authority. If, prior to starting a Race, the Horseshoe Inspector is unable to make a determination, or determines that a Covered Horse is wearing non-compliant horseshoes, the Horseshoe Inspector shall notify the Stewards prior to the Covered Horse leaving the paddock. Again, this measure ensures that the Stewards are notified of Covered Horses that should not be competing and can take the appropriate steps to remove the horse from the race. Intervention on the part of the Horseshoe Inspector or Steward has the potential to prevent or reduce the number of incidents and injuries associated with the use of shoes that are not compliant with the Authority's rules.

#### **2140. Racehorse Inspections and Monitoring**

#### **2141. Veterinary Inspections**

Rule 2141 establishes that Veterinary inspections shall be performed by the Regulatory Veterinarians on all Covered Horses entered in a Race, and that such inspections shall include the items listed in Rule 2142. The current rule specifies that if the Regulatory Veterinarian determines that a Covered Horse is unfit for competition, or

if the Regulatory Veterinarian is unable to make a determination of racing soundness, the Regulatory Veterinarian shall have the unconditional authority to scratch the Covered Horse from the race, and shall notify the Stewards that the Covered Horse shall be scratched.

The rule is modified in paragraph (a) to change the phrase “unfit for competition” to “unsound for competition,” because the word “unsound” is a more holistic veterinary term that embraces a wider range of conditions that could potentially compromise the horse’s safety and welfare. In addition, the rule is modified to state that if the Regulatory Veterinarian determines that the Covered Horse should be scratched for the specified reasons articulated in the rule, the Regulatory Veterinarian shall notify the Stewards that the horse shall be scratched, and the Stewards shall then scratch the horse from the race. This change was suggested and supported by commenters,<sup>64</sup> because it accords with existing state racing commission rules which provide only the Stewards with the authority to scratch a horse from a race.

#### **2142. Assessment of Racing Soundness**

Rule 2142 details the various reports, inspections and procedures that promote equine welfare and safety. A commenter suggested the removal of a provision in the modified rule as originally drafted that required the Layoff Report to be submitted not less than 30 days prior to entry.<sup>65</sup> The Racetrack Safety Committee considered this suggestion and removed the provision; the committee concluded that the Racetrack entry schedule (under which entries routinely close several days in advance of the race) provides adequate time for the Regulatory Veterinarian to review the lay-off reports.

Another commenter asked whether the Regulatory Veterinarian should be required to sign off on the horse prior to entry.<sup>66</sup> The California rule requires an

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<sup>64</sup> Tom Robbins, ROCO.

<sup>65</sup> Gary Palmisano.

<sup>66</sup> Tom Robbins.

additional regulatory inspection. The intent of the rule is to mirror more closely that in place in the Mid-Atlantic region, which is to require that the information be made available to the Regulatory Veterinarian to review. The intent is not to require an additional pre-entry regulatory inspection.

Concerning paragraph 2142(b), which governs post-entry screening, the modification requires Layoff Reports to be reviewed (in accord with the new provision concerning Layoff Reports in paragraph (a)). The modification also adds a sentence which states: “Additional physical inspection and observation in motion may be performed by the Regulatory Veterinarian.” This addition makes clear that the Regulatory Veterinarian may exercise the discretion to expand the inspection as needed to ensure the safety and well-being of the horse under inspection. At the suggestion of commenters,<sup>67</sup> the Authority removed a provision that required the Racetrack Safety Committee to approve any additional inspection. This allows the Regulatory Veterinarian to exercise immediate discretion according to the Regulatory Veterinarian’s professional judgement concerning the horse.

Commenters requested that the Authority develop a reporting form that will provide the medical history of all horses entered, to aid in the review of the last 30 days of medical history as required in the current rule.<sup>68</sup> The Authority agrees and is working on developing the form.

A commenter asked whether hindlimbs should be included in the current requirement that digital palpation be performed on forelimbs.<sup>69</sup> The Racetrack Safety Committee will consider this proposed requirement in future rulemaking. Nothing in the proposed rule prohibits a Regulatory Veterinarian from palpating hindlimbs.

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<sup>67</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>68</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>69</sup> Tom Robbins.

The current rule in paragraph (b)(3) requires that a report summarizing the results of pre-race inspections shall be submitted to the Authority on the day of the inspection. A commenter suggested that the Responsible Person be provided a copy of the report immediately in the event of a scratch by the Regulatory Veterinarian, so that all parties are kept informed as to the horses' condition.<sup>70</sup> The Authority will consider this suggestion in future rulemaking.

A minor modification is made to the current rule which requires that a Covered Horse be presented for inspection with bandages removed, and with legs in clean and dry condition. The current rule specifies that Covered Horses "may not be placed in ice," to which the modification adds the clarifying language that the horse may not be placed in ice "until the Regulatory Veterinarian has completed the veterinary inspection." This clarification is made in response to inquiries concerning the meaning of the rule. The rule makes clear that the practice is permitted once the regulatory inspection is complete.

With regard to various reporting requirements in various portions of the rule, a comment suggested that reporting be accomplished through InCompass, for the sake of efficiency.<sup>71</sup> Currently, the Authority is encouraging Racetracks to provide the Authority with access to their InCompass Equine Examination modules so that Regulatory Veterinarians do not have to report to both the Authority and InCompass. Under proposed Rule 2115(d), Racetracks will be required to authorize third-party system providers to provide this type of information directly to the Authority.

### **2143. Racehorse Monitoring**

Rule 2143 provides the procedures by which necessary vaccinations of Covered Horses are monitored. This is very important in the prevention or mitigation of the transmission of infectious diseases, which benefits the health and safety of Covered

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<sup>70</sup> THA.

<sup>71</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing.

Horses. Paragraph (a) of the rule is modified to specify that the paragraph applies to all horses entering Racetrack grounds “directly from any location or facility other than a Designated Equine Facility or licensed racing facility within the same state as the receiving Racetrack.” (The new proposed Rule 2144 establishes the concept of Designated Equine Facilities and will be discussed further under Rule 2144 below). The purpose of this exemption for Designated Equine Facilities and licensed racing facilities within the same state as the receiving Racetrack is to reduce the compliance burden on Responsible Persons and Attending Veterinarians when horses are stabled at auxiliary training centers where the risk of infectious disease transmission is deemed low.

The rule is also modified to require a “current” health certificate; the modification is necessary to clarify questions as to whether horses would be accepted from these facilities without any health certificate at all.

The rule is modified at the suggestion of a commenter<sup>72</sup> to permit the acceptance of a current health certificate or, in the alternative, “other health documentation sufficient for importation to the United States and approved by the [United States Department of Agriculture-Animal and Plant Health Inspection Service (“USDA-APHIS”)] representatives.” This phrase is added because horses at times arrive to race in the United States from foreign countries and are under USDA-APHIS surveillance, which includes surveillance for signs of infectious disease. This surveillance is documented and is considered to sufficiently mitigate the risk of infectious disease transmission.

Finally, the rule is modified to impose the requirements upon “Pony Horses” as well as Covered Horses, because Pony Horses often travel with, are stabled next to, and work in close proximity to Covered Horses. As such, transmission of infectious disease is increased. Extending the requirement to Pony Horses will mitigate that risk.

Concerning current Rule 2143(a)(1), which requires a certificate of veterinary

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<sup>72</sup> Breeders’ Cup.

inspection (“CVI”) within the prior 5 days, or fewer days if high risk situations dictate, a commenter opined that “5-day health certificates do not work in many situations; consider something intrastate or go back to 30 days.”<sup>73</sup> In response, the Authority notes that the Designated Equine Facility was a compromise created to reduce the compliance burden of Rule 2143(a)(1) in those situations deemed to be at lower risk for transmission of infectious disease while still affording a reasonable level of protection to Racetracks and stakeholders who have a shared financial interest in keeping the stable area and racing program safeguarded from infectious disease outbreak.

Another commenter opined that there “should be explicit language allowing the racetrack to require in-state horses to provide a CVI in the face of an outbreak.”<sup>74</sup> In response, the Authority replies that there is nothing in the rule that would prohibit this, and notes that the requirement was implemented by several Racetracks in 2023 during periods of heightened infectious disease concern.

A commenter expressed frustration with the varying health certificate rules in different jurisdictions.<sup>75</sup> The Authority understands the issue, but adopting, for example, a uniform flu-rhino requirement would eliminate the ability of Racetracks and state Departments of Agriculture to respond with shorter vaccination window requirements in high-risk situations. These entities believe this flexibility is needed to manage outbreaks of disease of economic importance to protect the equine industry at large.

A new paragraph (b) is included in Rule 2143, which states as follows: “(b) The applicable Racetrack shall maintain records that document that the requirements of Rule 2143(a) have been satisfied for each Covered Horse entering racetrack grounds. Such records shall be subject to inspection and audit by the Authority.” This provision is added in response to stakeholder requests for clarification about whose responsibility it is to

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<sup>73</sup> HBPA.

<sup>74</sup> I/ST Racing.

<sup>75</sup> Dr. Scott Hay.

maintain these records beyond the time of entry into the stable gate.

A commenter asked: “Is the racetrack responsible for maintaining records of all vaccinations or is the trainer themselves? Isn’t the trainer responsible for adding them to each individual horse record through HISA?”<sup>76</sup> In response, the Authority notes that Rule 2143 does not relieve the Responsible Person from the duty to keep the vaccines current in the horse’s health record in the HISA portal. The Racetrack, in turn, is responsible for maintaining records that document that the horse’s vaccination status was verified when the horse entered the Racetrack grounds.

A new paragraph (c) is added which states as follows:

(c) Exemption for vaccination requirements. Covered Horses that are imported to the United States to participate in a specific race or races or to enter race training in the United States may, upon application to the Authority, be exempted from the vaccination requirements, with the exception of requirements for Influenza and Rhinopneumonitis, for the following periods:

- (1) if the Covered Horse is leaving the United States immediately following the specific race or races, then for the period of USDA temporary importation or transit to an approved USDA location, or
- (2) if the Covered Horse is remaining in the United States, then for the period of 14 days following the specific race or races, or from arrival at a Racetrack, whichever is longer.

The proposed provision governs the health certificate rules for imported horses, with certain exemptions from vaccine requirements as specified. This takes into account the fact that certain vaccines are not available in some foreign nations, and a temporary exemption process in the rule provides a mechanism by which imported horses enter the

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<sup>76</sup> Minnesota Racing Commission.

U.S. Department of Agriculture quarantine facility; the rule provides a window of time within which any vaccines that the horse lacks can be administered once the horse arrives at the Racetrack. A commenter noted: “Just want to make sure that should such foreign horses stay beyond 14 days if okay. Del Mar had a Japanese horse stay beyond 14 days post Breeders’ Cup that remained under USDA observation/isolation before shipping to run In Hong Kong.”<sup>77</sup> In response, the Authority notes that extensions may be granted by the Racetrack Safety Committee on a case-by-case basis upon consideration of the circumstances.

Commenters opined that the vaccination exemption for imported horses should not include EHV/EIV.<sup>78</sup> The Authority agrees, and the rule was changed accordingly. This is because Equine Influenza and Equine Rhinopneumonitis are the two respiratory diseases of greatest concern in racehorses.

Paragraphs (b) and (c) of the current rule (now restyled as paragraphs (d) and (e)), enumerate the items of information that must be submitted to the Authority by the Racetrack with respect to each Covered Horse on its grounds, and each Covered Horse leaving its grounds. This rule is modified to state in each case that the information must only be provided “upon request by the Authority.” This change is made to clarify that Racetracks are not required to upload this detailed information on a daily basis to the Authority.

#### **2144. Designated Equine Facility**

A new proposed Rule 2144 will establish a procedure by which Racetracks may seek to designate equine facilities as Designated Equine Facilities under the rules. The reason for the adoption of this rule is to balance the interest in safeguarding the equine population from infectious disease outbreak with the compliance burden imposed by a

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<sup>77</sup> Tom Robbins.

<sup>78</sup> 1/ST Racing and a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

health certificate requirement.

The proposed rule states in full:

- (a) To qualify an equine facility as a Designated Equine Facility, the applicable Racetrack shall certify to the Authority in such form as the Authority may prescribe that it has reviewed and determined that the biosecurity protocols and procedures of the Designated Equine Facility are consistent with the biosecurity protocols and procedures of the Racetrack.
- (b) The applicable Racetrack shall maintain records that document that the requirements of Rule 2144(a) have been satisfied for each Designated Equine Facility, including but not limited to the written biosecurity protocols and procedures of the Designated Equine Facility. Such records shall be subject to inspection and audit by the Authority.

In essence, the rule allows Racetracks to designate certain facilities as exempt from specified health certificate requirements, on the condition that the Racetrack certifies to the Authority that it has confirmed that the biosecurity protocols at the facility are consistent with those at the Racetrack.

A commenter maintained that if the Authority chooses “to certify Designated Training Facilities that are not owned by a racetrack, [the Authority] should be responsible for certifying their biosecurity protocols and oversight of compliance.”<sup>79</sup> The commenter further asserted that “[a]s an independent entity, the racetrack has no authority over their operations or right of entry.”<sup>80</sup> In response, the Authority notes that it will not be certifying Designated Equine Facilities, though it will, as part of a Racetrack’s Accreditation process, review the records referenced in paragraph (b) of this rule. The

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<sup>79</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing. A previous version of this proposed rule referred to the facilities contemplated in this rule as “Designated Training Facilities.”

<sup>80</sup> *Id.*

risk assessment and Designation determination is left to the Racetrack, and Racetracks are free to require 5-day health certificates (or lesser, in high-risk situations) for horses coming from any property at any time. A commenter stated: “Please note, not all training facilities are affiliated with Covered Racetracks. Will HISA be recognizing and allowing horses to run off of training facilities that are not affiliated or designated by Covered Racetracks? Regardless if the training facility is affiliated with a Racetrack or if it is independent operation, there are certain safety precautions and protocols that must be adhered to, similar to a Racetrack. Additionally, the Authority should be reviewing and approving all protocols and procedures of the training facilities, and not just those pertaining to the biosecurity.”<sup>81</sup> In response, the Authority notes that the Racetrack Safety Committee considered the risk assessment with regard to nearby, intrastate facilities was best left to the Racetrack operators whose familiarity with the local landscape and ability to respond quickly to emerging diseases exceeds that of the Authority. The alternative was to keep the original 5-day health certificate intact for all horses coming from off-site, and the Racetrack Safety Committee felt the creation of the Designated Equine Facility was a reasonable compromise.

Another commenter stated: “Designated Training Facilities should be subject to their own accreditation process, tailored to that particular circumstance. As the Racetrack Safety and Antidoping and Medication Control Programs continue to develop, it is very likely that owners and trainers will relocate their Covered Horses to such facilities in order to avoid the increased protocols being observed on Racetrack grounds. This calls for regulation of such facilities in greater depth which will, in turn, bring with it increased levels of safety and integrity protections while also providing further sources of data and information for the Authority’s programs.”<sup>82</sup> In response, the Authority notes the intent of

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<sup>81</sup> The Jockeys’ Guild.

<sup>82</sup> The Jockey Club.

the comment, and does not disagree in principle. However, the comment does not appear to be directly relevant to the creation of a compromise proposed solution to the requirement of a 5-day health certificate in certain situations.

#### **2150. Racetrack and Racing Surface Monitoring and Maintenance**

#### **2151. Data Collection, Recordkeeping and Submission**

The Authority is proposing minor clarifying language to this rule.

#### **2152. Testing Methods**

The Authority is not proposing any modifications to this rule.

#### **2153. Racetrack Facilities**

Rule 2153 is modified with the addition of the following requirement in paragraph (b)(2): “The top of the inner and outer rails on dirt and turf courses must be at least 40 inches but not more than 50 inches above the top of the race surface.”

Commenters expressed concerns about the reasonable allowances for variations in rail height.<sup>83</sup> The Authority believes that the 10-inch span for compliance with the top inner and outer rails on dirt and turf courses provides considerable latitude for variation. In response to a comment concerning the sources of information concerning rail height,<sup>84</sup> the Authority states that it consulted extensively with experienced racetrack superintendents in specifying the appropriate dimensions.

A commenter expressed the view that more precise specifications concerning metrics, measurement devices, and time and space intervals should be prescribed in the rule.<sup>85</sup> The Authority will be considering all requirements in the course of its ongoing study and analysis of Racetrack facility requirements and their relationship to equine and rider safety.

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<sup>83</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>84</sup> Mike Hopkins.

<sup>85</sup> CHRB.

A current provision under new paragraph (d)(2) requires protective padding on starting gates; the modification adds Riders and Starting Gate Persons to the persons whose safety is to be ensured. This addition is made to ensure that the specific safety requirements of these persons be considered when addressing padding requirements.

Commenters asked whether there should be a requirement for backup starting gate batteries on Racetrack grounds.<sup>86</sup> The Authority's rule requires a functioning starting gate; track management is given the latitude to determine how that shall be accomplished, whether by using backup batteries or other functionalities.

A modification of the paragraph clarifies the requirement that the Racetracks have in place a written plan for the removal of the starting gate after the start of each Race in a safe and timely manner. The modification will also require the plan to be reviewed annually. This further enhances the safety of starting gate operation and procedures.

An important new modification now states: "(8) A Racetrack shall ensure there is at least 1 Starting Gate Person present for each Covered Horse starting in a Covered Horserace." Although some commenters expressed concern about complying with the requirement,<sup>87</sup> the requirement is a vital component of ensuring the safety of all persons working at the starting gate.<sup>88</sup>

A new rule is added stating as follows: (f) The Racetrack shall provide a suitable area for jogging claimed horses in or near the Test Barn or, if approved by the Authority, a secured area used for claimed horse exams. The jogging area shall be of sufficient length to jog the claimed horse in hand in a straight line of not fewer than 5 strides and have consistent, firm, and level footing, and shall be out of the view of persons not authorized in the Test Barn or secured area. The purpose of the rule is to provide

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<sup>86</sup>Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing; Breeders Cup.

<sup>87</sup>Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing; Mike Hopkins.

<sup>88</sup> This new language was suggested by the Jockeys' Guild.

adequate space for the jogging of claimed horses. The “out-of-view requirement” is a component of maintaining the integrity of the examination.

A commenter expressed the view that the emergency warning system should be more specifically defined in Rule 2153(d)(1) of the current rule (now restyled as paragraph (e)(1)).<sup>89</sup> The Authority requires an emergency warning system to be in place, but the rule properly allows Racetracks the discretion to conform to the rule requirements as local track conditions dictate.

#### **2154. Racetrack Surface Monitoring**

In addition to minor terminological changes, the language in Rule 2154(b) is modified to more clearly state that Racetracks shall perform pre-meet inspections on surfaces; the current language does not specify the person or entity charged with performing the inspections.

Rule 2154(d) is modified to explicitly state that the surface equipment inventory, surface maintenance logs, and surface material addition or renovation logs specified in the current rule are to be documented daily and uploaded weekly by the Racetrack to an electronic database designated by the Authority; the current language does not make clear to whom the information is submitted, and the rule will now establish the timing of the documentation and upload requirements, rather than leaving this unspecified.

At the suggestion of commenters,<sup>90</sup> the words “and speed” are added to the specified contents of the daily surface maintenance logs addressed in Rule 2154(d)(1). Additionally, the words “material specifications” are added to the documentation requirements concerning additions to surfaces set forth in Rule 2154(d)(2). These are minor modifications intended to ensure that all important informational items are included within the requirements of these rules.

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<sup>89</sup> The Jockeys’ Guild.

<sup>90</sup> Dan Fick and ROAP.

## **2160. Emergency Preparedness**

### **2161. Emergency Drills**

Rule 2161 governing emergency drills is modified to require emergency protocols to be reviewed periodically during each Race Meet, in addition to prior to the Race Meet as required under the current rule. Modifications also add Starting Gate Person injury and medical emergencies to the list of emergencies to be included in the protocols, and the term “Jockey” is deleted in favor of the term “Rider” in two provisions, widening the ambit of the injury scenarios that must be anticipated and included in the protocols. These modifications will benefit Covered Horses and Riders by enhancing a Racetrack’s response to the emergencies specified in the rule.

### **2162. Catastrophic Injury**

Rule 2162 concerning Catastrophic Injury is modified with minor changes in terminology. A modification deletes a provision that currently requires communication to the public to be a component of the protocols required in the rule. The need for communication is difficult to specify when Racetracks are responding to an emergency, and may have little information to provide until the situation is assessed.

### **2163. Fire Safety**

This rule is unchanged.

### **2164. Hazardous Weather**

Rule 2164 is modified to include a new provision requiring Racetracks to comply with State Racing Commission rules governing the delay or cancellation of races due to inclement weather, extreme heat, extreme cold, lightning or other hazardous racing conditions. In the absence of state rules, Racetracks are required, in conjunction with the Racetrack’s Stewards, Jockeys, and Horsemen, to develop Racetrack-specific protocols for the delay or cancellation of races due to inclement weather, extreme heat, extreme cold, lightning or other hazardous racing conditions. The terms “extreme heat” and

“extreme cold” were added at the suggestion of a commenter to the list of environmental conditions that must be addressed in the hazardous weather protocols that are developed under the rule.<sup>91</sup> The terms cover extremes of weather that are prevalent at some Racetracks. In addition, new provisions are added to provide a structured method by which Air Quality Index may lead to a cessation of racing. Air quality is an important consideration in preserving the health and safety of Covered Horses and Riders. The Authority will consider in future rulemaking suggested provisions provided by a commenter concerning lightning protocols.<sup>92</sup>

### **2165. Infectious Disease Management**

Rule 2165 is largely unchanged, except for the modification of the word “symptoms” to “signs” in paragraph (b). A particular condition of a Covered Horse may be difficult initially to identify as symptom of a particular infectious disease. “Signs” refers only to an observed physical condition or behavior. The Authority is also proposing a modification to paragraph (d) to expand the reporting requirements in the event of a disease outbreak at the Racetrack. The proposed modification will now require reporting to the Authority in addition to the applicable state official.

### **2166. Human Ambulance Support**

The Authority proposes several modifications to its human ambulance rule. These modifications were the subject of considerable debate and discussion, and this revised rule has undergone numerous iterations in response to important and thoughtful comments submitted by industry stakeholders over the last few months. All of the proposed changes are intended to improve the efficiency and speed of the medical response to an on-track riding incident, which, in turn, improves the health and safety of all racing participants, including Covered Persons and Covered Horses.

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<sup>91</sup> ROCO.

<sup>92</sup> The Jockeys’ Guild.

A new proposed rule is added as paragraph (a), which will require Racetracks to ensure that no fewer than 2 properly staffed and equipped Advanced Life Support (“ALS”) ambulances or ALS adapted vehicles are present at the Racetrack during training and racing hours. This is in accord with a comment submitted by the Jockeys’ Guild. ALS ambulances are staffed by a minimum of 1 paramedic and 1 emergency medical technician, who are trained in a variety of first aid and resuscitation techniques. The Authority recognizes the economic burden this requirement may place on Racetracks, and in response to these concerns has added a provision allowing the Racetrack Safety Committee to permit a Racetrack to have 1 ALS ambulance or ALS adapted vehicle present during racing and training hours. The Racetrack Safety Committee will scrutinize any such request very carefully, and always with the safety of Riders and Covered Horses firmly in mind.

Paragraph (c) requires Racetracks that operate a training track in addition to a main track to provide at least 1 of the following medical response vehicles dedicated to the training track during training hours: 1 ALS ambulance, ALS adapted vehicle, Basic Life Support (“BLS”) ambulance or BLS adapted vehicle. Requiring a medical response unit to be present on the training track is necessary to effectively and swiftly respond to medical events and incidents that take place at the training track. The Authority again recognizes the economic burden this may place on Racetracks, and in response to these concerns has provided tracks with some flexibility as to the type of ambulance or adapted vehicle present at the track.

Paragraphs (e), (f), and (g) require the tracks to develop and implement (1) a training program for all ambulance staff to ensure they are familiar with and adequately trained on the unique safety and incident response issues present in horseracing; (2) protocols for incidents involving injuries to more than one Covered Person during the same race; and (3) an incentive program to retain skilled and certified ambulance staff

experienced in the medical response issues present in horseracing. The Authority believes these measures are critical to ensure on-site medical staff are properly trained and experienced in the unique safety and incident response issues associated with horseracing. Commenters noted that mandating creation of an incentive program for retaining personnel is an overreach into the business operations of the Racetrack.<sup>93</sup> The Authority appreciates this comment and recognizes that incentive programs can take many forms. Thus, the Authority has intentionally left it to the tracks to identify the type(s) and details of the incentive program that will be most effective for that track.

Finally, paragraph (h) imposes a requirement on tracks to have an ALS ambulance or ALS adapted vehicle to follow the field at a safe distance during the running of races. The Authority received comments expressing concern over mandating the use of a chase vehicle without accounting for poor weather conditions or narrow Racetrack.<sup>94</sup> The Authority appreciates and agrees with these commenters and has modified the rule to clarify the steps the track should take in the event Racetrack surface conditions prevent the ALS ambulance or ALS adapted vehicle from safely following the racing field.

### **2167. Rider Injury Reporting Procedure**

Rule 2167 is modified to change the title of the rule from “Accident Reporting System” to “Rider Injury Reporting Procedure” as this better identifies the subjects addressed in this rule.

The rule is also modified to specify that State Racing Commissions that enter into an agreement with the Authority shall develop the procedures outlined in the rule, rather than the Racetracks. The term “Rider” will replace “Jockey and exercise rider,” and the modification specifies that data collected under the rule shall be submitted to the

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<sup>93</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>94</sup> Mike Hopkins, Tracks.

Racetrack Risk Management Committee, in addition to the Authority. This change ensures that the Racetrack Risk Management Committee is provided with Rider injury data, a critical element in the Committee's endeavor to ensure the safety of Riders and Covered Horses. A final change is the inclusion of "safety equipment used" in the listing of data elements to be collected.

The Jockeys' Guild asked several important questions concerning how the data will be collected and stored. In any Rider injury situation, the first responders and racetrack safety personnel will have available data and information that is submitted by the Jockey to the Authority's electronic platform designated for collection and storage of Jockey eligibility documentation. This system is designed for use at the scene of the injury for entry of data concerning the Jockey and the circumstances of the injury. The system will provide an accident report form into which injury information will be entered in detail. The Jockey's records will be stored in a database maintained by the electronic platform referenced above. It will also be available to the Authority for use in further analysis of issues pertaining to Jockeys and Covered Horses. The Jockeys' Guild asked if the information may be shared with the Guild. The Authority is willing to provide the information, provided the transfer is authorized by the Jockey and in compliance with all applicable laws.

#### **2168. Equine Ambulance**

Several modifications are proposed for this rule to establish specified performance and equipment requirements. The requirements specify that the ambulance must be able to operate in all weather conditions, that it is properly equipped to stabilize distal limb injuries, and that it is capable of removing a recumbent horse from the racetrack and safely transporting the horse off of association grounds. These requirements will enhance the safety of Covered Horses by ensuring that the ambulance is properly equipped to respond effectively to any equine injury.

### **2169. Paddock Safety**

Rule 2169 is amended to specify that when State Racing Commissions, rather than racetracks, enter into an agreement with the Authority, the State Racing Commissions shall ensure that the protocols outlined in the rule are in place. This provides greater flexibility to the rule, and allows State Racing Commissions that agree to do so to perform the duties in Rule 2169.

### **2170. Necropsies**

Rule 2170 is modified significantly. The current rule states that “field necropsies are strongly discouraged.” (In the racing industry, “field necropsies” means necropsies performed at the Racetrack.) Field necropsies are extremely rare today and are not favored. The modified rule specifies that necropsies shall be performed at a laboratory. The rule mandates necropsies to be performed on all Covered Horses that die or are euthanized on Racetrack grounds. In addition, the rule is extended to include all horses that die or are euthanized due to, or related to, a musculoskeletal injury within 72 hours of leaving Racetrack grounds. The rule specifies musculoskeletal injuries because these injuries are usually sustained as a result of high-speed training and racing. If the horse leaves the Racetrack after sustaining the injuries, a necropsy must be performed if the horse dies or is euthanized within 72 hours. The 72-hour benchmark is an industry standard; for example, the existing Equine Injury Database by InCompass operates according to a 72-hour reporting criteria for many types of injuries. The 72-hour reporting requirement does not apply to other types of injuries. If, for example, a horse leaves a Racetrack and dies or is euthanized soon afterward due to colic (which has nothing to do with racing and might as easily develop on a farm), a necropsy is required only if the horse dies or is euthanized on Racetrack grounds. Several Racetracks encouraged the Authority to include the musculoskeletal injuries 72-hour specification,

and the Authority agrees.<sup>95</sup>

The modified rule requires Racetracks to establish standard operating procedures that specify various elements of necropsy procedure, including contact and coordination between persons and organizations necessary to perform the necropsy, transportation options, secure storage procedures, sound infection control practices, and procedures for reporting necropsy findings.

The modified rule requires Racetracks, or State Racing Commissions that have an agreement with the Authority, to coordinate with a diagnostic laboratory that performs necropsies. A contract is not required because, as noted by several Racetrack commenters, “it is difficult to require a contract between a state laboratory and the racetrack. Simply, the diagnostic laboratory chosen for a particular necropsy is often based upon volume of horses that can be examined. Some facilities are very limited in the number of horses they can take at one time. This often necessitates sending other horses to another facility. Mandating a contract decreases flexibility in these instances and will lead to an increase in field necropsies which are less effective.”<sup>96</sup> The requirement in the rule to coordinate with a diagnostic laboratory that performs necropsies means that arrangements concerning means of communication, transportation, and intake procedures must be established. In some states, laboratories may lack the resources necessary to conduct musculoskeletal injury examinations; in this case, the rule authorizes Racetracks and /or diagnostic laboratories to contract with a laboratory that specializes in musculoskeletal injury racehorse examinations. The rule requires initial necropsy findings and subsequent reports to be filed with the Regulatory Veterinarian, the Racetrack Risk Management Committee, and the Authority within 72 hours of receipt.

The modified rule imposes the cost of necropsies upon “those persons who are

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<sup>95</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

<sup>96</sup> *Id.*

responsible for necropsy costs pursuant to existing state rules. In jurisdictions that do not provide for necropsy costs or address the responsibility for payment, the Racetrack shall be responsible for payment.” Some commenters expressed that Racetracks should not have to bear some or any of the costs of necropsies.<sup>97</sup> Nationwide, Racetracks do bear much of the cost, though states have varying rules and agreements by which the Racetracks, state racing commissions, and horsemen’s groups share the cost together. While the Racetracks do bear the cost in the absence of state rules or agreements, nothing in the rule inhibits Racetracks from entering into such agreements.

Necropsies are a vital source of information in the effort to prevent equine fatalities. The information obtained from musculoskeletal injury examinations can help determine the cause of breakdowns and injuries, and can lead to the discovery or enhancement of preventive measures. The necropsy rule as modified will ensure that necropsies are performed effectively and efficiently, and will thereby benefit Covered Horses.

#### **2180. Safety Training and Continuing Education**

#### **2181. Uniform National Trainers Test**

This rule is unchanged, except for the capitalization of the word “State” and additional language clarifying that Trainers shall be knowledgeable of the rules set out in the Racetrack Safety Rule and the Anti-Doping and Medication Control Program.

#### **2182. Continuing Education**

Several modifications are proposed for Rule 2182 which establishes continuing education (“CE”) requirements. The rule is modified to make clear that Jockeys and Exercise Riders are required to complete at least 2 hours of safety and rider protocols on an annual basis. Paragraph (4) concerning CE for Stewards is modified to refer generally to continuing education programs that might be approved by the Authority, rather than to

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<sup>97</sup> ROCO, Joe Wilson.

the specialized ROAP. ROAP is approved by the Authority and provides high quality CE programs; the modification will allow the Authority to identify other useful CE programs as well.<sup>98</sup>

New requirements are added for Safety Directors and for the Farriers and Horseshoe Inspectors who will have roles and responsibilities under new Rules 2137, 2138, and 2139, which together create a structured procedure for horseshoe inspections. Minor changes include the modification to refer to the new proposed defined term “Starting Gate Persons,” rather than starters and assistant starters.

Several commenters asked who will provide the CE and monitor compliance, sanction non-compliance, and set the curriculum.<sup>99</sup> The Authority is developing a CE program that will be a component of the registration portal and will be made available to Covered Persons participating in states where the State Racing Commission has not entered into an agreement with the Authority to implement the provision of Rule 2182. It will allow the entry and monitoring of CE credit hours for the convenience and benefit of all Covered Persons required to complete CE hours.

A state racing commission asked if it would be required to provide CE, rather than identify existing training opportunities.<sup>100</sup> The current rule and modified proposed rule both require a State Racing Commission that has an agreement with the Authority to “identify existing, or provide locally, training opportunities.” The State Racing Commission may fully comply with the rule by identifying CE rather than providing it.

### **2183. Sexual Harassment Prevention**

Rule 2183 is a new provision requiring Covered Racetracks to implement and enforce a sexual harassment and non-discrimination policy that offers protection to

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<sup>98</sup> ROAP suggested the continued use of the term “ROAP,” but the Authority believes the better course is to avoid identifying a particular program by name, since a number of programs may ultimately be identified.

<sup>99</sup> ROCO, HPBA, Washington Horse Racing Commission.

<sup>100</sup> Kentucky Horse Racing Commission.

Covered Persons by prohibiting discriminatory behavior at its facilities. The Authority proposes this new rule in response to reports it received from racing participants pertaining to sexual harassment and discrimination at the Racetrack or in a racing workplace. The reports focused primarily on the absence of an established reporting process for harassing and discriminatory behavior, and other comments touched on a lack of confidence in the reporting system (if any). The Authority aims to address, at least in part, some of these issues by requiring each Racetrack to develop and implement and enforce a sexual harassment and non-discrimination policy that offers protection to Covered Persons by prohibiting discriminatory behavior at its facilities. At a minimum, the policy must define and prohibit sexual harassment and discrimination against Covered Persons within the applicable legal protected classifications and provide an effective process for reporting and investigation of prohibited sexual harassment and discrimination. The policy must also memorialize the Racetrack's authority to impose discipline on any individual found to be in violation of the policy, including but not limited to exclusion from the Racetrack (and all related Racetrack grounds and facilities) and any racing activities.

Several commenters expressed the view that this rule exceeds the scope of the Authority's jurisdiction under the Act.<sup>101</sup> The Authority disagrees. Part of the Authority's statutory mandate is to exercise independent and national authority over the safety, welfare, and integrity of Covered Persons. This rule is consistent with that mandate.

In further support of this Rule, the Authority refers the Federal Trade Commission to a report recently commissioned by controlling bodies of racing in Australia (Racing Victoria Limited, Harness Racing Victoria, and Greyhound Racing Victoria), which demonstrates that harassment and discrimination are widespread in the

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<sup>101</sup> See, e.g., comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing; comment submitted by Mike Hopkins.

racing industry and underscores the need for well-defined channels for reporting sexual harassment and discrimination in the racing workplace.<sup>102</sup>

### **2190. Jockey and Starting Gate Person Health**

#### **2191. Drug and Alcohol Testing**

Currently, Rule 2191 requires State Racing Commissions electing to enter into an agreement with the Authority to develop and implement a testing program for drugs and alcohol for Jockeys. The rule is modified to add Starting Gate Persons to the testing program. Starting Gate Persons perform a vital role in handling horses and loading them into the starting gate. Ensuring that Starting Gate Persons are not impaired is important for their safety and the safety of Jockeys and Covered Horses. The Jockeys' Guild urged that the program be required for additional categories of racing officials.<sup>103</sup> The Authority agrees that this is an important proposal to consider in future rulemaking. At present, the most immediate need is to ensure that both Jockeys and Starting Gate Persons are subject to drug and alcohol testing, and that will be accomplished under the terms of the proposed rule modification.

#### **2192. Concussion Management**

A minor modification is proposed for Rule 2192, Concussion Management. Paragraph (a)(1) is amended to make clear that the requirement that Jockeys must acknowledge in writing that they have been made aware of the Concussion protocols is an annual requirement, rather than a requirement to review the protocols "in place for the facility at which they are riding;" the quoted phrase will be deleted in the modification.

The Jockeys' Guild stressed the importance of developing a unified national concussion management protocol with return to ride guidelines established by medical

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<sup>102</sup> See Racing Integrity Commissioner, Independent Review into Victorian Racing Industry Victim Support and Complaint Processes (Aug. 31, 2023), *available at* [https://racingintegrity.vic.gov.au/\\_data/assets/pdf\\_file/0026/201869/Independent-Review.pdf](https://racingintegrity.vic.gov.au/_data/assets/pdf_file/0026/201869/Independent-Review.pdf).

<sup>103</sup> The Jockeys' Guild.

experts in concussions. The Jockeys' Guild emphasized that the return to ride protocol should operate to clear a Jockey to return to riding for all Jockey injuries, and not just concussions. The Authority's return to ride protocol does embrace all Jockey injuries. The Authority recognizes the vital importance of these components of racing safety. The Authority has developed a national concussion management protocol, as well as a return to ride protocol in collaboration with the third-party medical records storage organization with which the Authority has partnered. Both protocols are currently being implemented nationwide.

### **2193. Insurance**

Rule 2193 requires Racetracks, in states that do not afford Jockeys workers compensation insurance, to maintain primary accidental medical expense coverage for all Jockeys. The rule is modified to clarify that the insurance covers training as well as racing. In addition, the modified rule will require that the current policy's declaration page shall be posted in the Jockeys' quarters prior to the beginning of the racing season.

Medical insurance is a vital component of ensuring the well-being of Jockeys, and the extension of medical insurance to training activities is a natural and beneficial extension of insurance coverage. The majority of Racetracks across the United States already provide this coverage, but the rule makes it an explicit and uniform requirement. The requirement that the declaration page be posted in the Jockey's quarters allows Jockeys to review the coverage, and to obtain the name of the insurance company involved in case a Jockey wishes to inquire further about coverage.

### **2200. Specific Rules and Requirements of the Racetrack Safety Program**

#### **2210. Purpose and Scope**

The Authority proposes minor stylistic modifications to this rule along with elimination of the preemption language referenced in paragraph (c) as it is a general statement of law that need not be included in this rule.

## **2215. Welfare and Deprivation of Care**

The Authority proposes this new rule to establish a prohibition on abusive practices, neglect and mistreatment of Covered Horses that is not otherwise covered by the rules and to incorporate existing industry principles and standards codified in the National Thoroughbred Racing Association Safety and Integrity Alliance Code of Standards and the Association of Racing Commissioners International Model Rules.

Commenters requested that the Authority describe with particularity the types of conduct prohibited under this rule.<sup>104</sup> Abuse, neglect or mistreatment of a Covered Horse, however, may take many forms and is not easily capable of definition. Thus, the Authority believes that this rule, like the Code of Standards and the ARCI Model Rules, should remain open-ended to provide flexibility in its application to varied circumstances that could constitute abuse, neglect or mistreatment of a Covered Horse.

## **2220. Attending Veterinarian**

The Authority proposes new language to Rule 2220(a) to specify that an Attending Veterinarian must be licensed by a “State’s board of veterinary examiners (or applicable veterinary licensing board),” in addition to the current requirement of licensure by the State Racing Commission in the jurisdiction in which the Attending Veterinarian is attending to Covered Horses.<sup>105</sup>

Several commenters noted that treatment should not be limited to Attending Veterinarians, as Association Veterinarians often provide emergency care as well as supportive care for Covered Horses that are injured.<sup>106</sup> The Authority agrees and has proposed new introductory language to Rule 2220(a), authorizing Regulatory Veterinarians and Lead Veterinarians (which are appointed by the Authority and may

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<sup>104</sup> Dr. Jeff Blea and the CHRB.

<sup>105</sup> The additional language was suggested by the HBPA.

<sup>106</sup> This is a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

include Association Veterinarians) to administer emergency treatment to Covered Horses on Racetrack grounds when the Attending Veterinarian is not present.<sup>107</sup> This exception is necessary to protect the safety and welfare of Covered Horses in emergency situations.

### **2221. Treatments by Attending Veterinarian**

In addition to minor modifications to include the words “Responsible Person” and “Covered Horse,” the word “drug” is replaced by “Controlled Medication” in the rule’s prohibition against prescribing, dispensing, or administering a Controlled Medication except in the context of a valid Veterinarian-client patient relationship. The term “Controlled Medication” is preferred to avoid confusion, to clarify what is being referenced in this rule, and to correspond to the term as used and defined in the Anti-Doping and Medication Control Program Rules.

### **2230. Treatment Restrictions**

Paragraph (a) of the rule is modified to remove the qualifier “at locations under the jurisdiction of the State Racing Commission” from the provision that now states in pertinent part that only Responsible Persons “or their designees shall be permitted to authorize veterinary medical treatment of Covered Horses under their care, custody, and control.” The language is deleted as improperly restrictive; the restriction concerning the authorization of veterinary medical treatment exists regardless of where the Covered Horse is located. This further promotes the welfare of Covered Horses.

Paragraph (b) restricts to Veterinarians the power to prescribe medication with instructions for administration by a Responsible Person for a Covered Horse. Paragraph (b) is modified to make clear that a Veterinarian must be licensed to practice veterinary

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<sup>107</sup> The new introductory language in Rule 2220(a) provides, “[s]ubject to Rule 2230(d), only Attending Veterinarians...may attend to Covered Horses at any location under the jurisdiction of the State Racing Commission.” (emphasis added). Rule 2230(d) authorizes the Regulatory Veterinarian to administer emergency treatment to horses on Racetrack grounds when the Attending Veterinarian is not present. Rule 2134(c) provides that the “Lead Veterinarian(s) shall perform all of the duties, obligations and responsibilities of the Regulatory Veterinarian(s) as specified in these Rules.” Thus, this exception permits the Regulatory Veterinarian(s) and Lead Veterinarian(s) to attend to Covered Horses in emergency situations.

medicine in the applicable state only if such licensure is required in the State.

Veterinarians often travel from state to state, and should not be required to be licensed to practice veterinary medicine in a particular state if that state does not require such licensure. In addition, paragraph (b) is modified to delete the requirement that the Veterinarian be licensed by the State Racing Commission; instead, the rule now explicitly requires that the Veterinarian be registered with the Authority.

Paragraph (c) generally prohibits contact by an Attending Veterinarian with a Covered Horse within the 24 hours before post-time of race in which the Covered Horse is scheduled to compete. The current rule permits an exception to this restriction in “an emergency.” This phrase is replaced by more precise language that permitting contact if “such contact is necessitated by an imminent risk to equine welfare, health, or safety.” The rule is also modified to require that any contact with the Covered Horse within the specified 24 hours be reported to the Regulatory Veterinarian. This reporting requirement is necessary to prompt intervention by the Regulatory Veterinarian to determine whether a Covered Horse should be scratched from the race.

The introductory clause “notwithstanding Rule 2220(a)” is added to paragraph (d). This clause clarifies that paragraph (d), which permits the Regulatory Veterinarian (and, by extension, the Lead Veterinarian) to administer emergency treatment to Covered Horses on Racetrack grounds when the Attending Veterinarian is not present, is an exception to Rule 2220(a), which states that only Attending Veterinarians may attend to Covered Horses at locations under the jurisdiction of the State Racing Commission. Paragraph (g), governing the ability of persons with medical conditions to possess a syringe at locations under the jurisdiction of the State Racing Commission, is modified to require that any request for permission to possess a syringe must be in writing, and to clarify that the person making the request must submit a letter from a physician to the Stewards or the State Racing Commission in connection with the request. This

modification is necessary to clarify the process for submitting requests to possess a syringe on Racetrack grounds.

#### **2240. Veterinarians' List**

This rule establishes the Veterinarians' List, which is a list of Covered Horses that have compromised health or unsoundness and prohibits these Covered Horses from racing. Rules 2240 through 2242 outline the process by which Covered Horses are determined to have recovered from their illness or unsoundness and may return to racing. Covered Horses that participate in a race while medically or physically compromised are at risk for exacerbating the illness or physical injury, and in some cases having a career ending or catastrophic injury, also risking severe injury to the Jockey. The rule prevents affected Covered Horses from racing until the Covered Horses have recovered from their illness or injury. The rule is designed to protect Covered Horses from worsening an existing condition, and allow for recovery, rehabilitation, and return to racing in a healthy state. The rule is intended to protect Jockeys from injury associated with a fall from a Covered Horse due to the Covered Horse incurring a severe injury during a race and falling at high speed. Racetracks will benefit from the prevention of horse fatalities during races. Racetracks and Racing Commissions will benefit because the Veterinarians' List will be shared among all racing jurisdictions so that Covered Horses put on the list at one jurisdiction will be identifiable when the Covered Horse moves to another jurisdiction.

The Authority proposes several modifications to this rule. Paragraph (b) is modified to state with more precision, and in specific respects to alter, the current rule governing those Covered Horses required to be placed on the Veterinarians' List. The modification deletes the phrase "positive test or overage, administration of a medication invoking a mandatory stand down time," and the phrase "positive Out of Competition Test." The Authority proposes deletion of these phrases as no longer necessary with the

implementation of the ADMC Program. Covered Horses with a positive test may be subject to periods of ineligibility under the ADMC Program, which, like the Veterinarians' List, prevents the Covered Horse from racing while in a compromised state.

The current language setting out the triggering conditions or events that require placement on the Veterinarians' List is re-written to distinguish placement on the Veterinarians' List by the Regulatory Veterinarian from placement on the Veterinarians' List by the Authority. Generally speaking, the Regulatory Veterinarian regulates and monitors the physical condition of Covered Horses at the Racetrack, and may place Covered Horses on the Veterinarians' List for physical conditions such as unsoundness, injury, Epistaxis, and other conditions listed in the rule. In the new language, three conditions in particular (unsoundness, injury, Epistaxis) prohibit Covered Horses from participating in a Workout for 7 days. This is an added safety measure for the Covered Horse.

The Authority is permitted to place Covered Horses on the Veterinarians' List for any of the grounds specified in Rule 2240(b)(3)(i) through (vii). These grounds correspond to treatments or racing status that the Authority has the ability to monitor through required reporting to the Authority by Responsible Persons and Attending Veterinarians and include:

- (i) Covered Horses which have not started in more than 365 days;
- (ii) unraced Covered Horses which have not made a start prior to January 1 of their 4-year-old year;
- (iii) Covered Horses which have been administered Shock Wave Therapy;
- (iv) Covered Horses which have been administered an intra-articular injection;
- (v) Covered Horses which have been administered clenbuterol;
- (vi) Covered Horses designated by the Agency; and

(vii) Covered Horses currently on a Veterinarian's List in any state, if trying to enter in a Covered Horserace.

Several of these categories are added to this rule to harmonize with the ADMC Rules and to ensure that all reasons for placement on the Veterinarians' List are included in a single location for easy reference by stakeholders. Category (vii) is included to account for Covered Horses that race in Covered Horseraces and non-Covered Horseraces over the course of their career. This ensures that any Covered Horse placed on any Veterinarians' List – regardless of jurisdiction – is accurately captured by the Authority's Veterinarians' List.

Rule 2240(c) is modified to use the phrases “Responsible Person” and “Designated Owner” in place of the words “trainers and owners.” The essential requirement of the rule remains the same: the Responsible Person and Designated Owner are required to be notified within 24 hours that their Covered Horse has been placed on the Veterinarians' List. The Authority received several comments pertaining to this 24-hour notification requirement, asking who is responsible for sending the notification as well as the method for notifying the Responsible Person and Designated Owner.<sup>108</sup> Under current practice, notifications are being delivered through the Authority's portal to the Responsible Person and the Designated Owner (their contact information is on file with the Authority) when the Covered Horse is placed on the Veterinarians' List for a category that requires the Covered Horse to complete a workout for removal from the Veterinarians' List, such as Epistaxis, unsoundness, no starts within the last 365 days, and no start prior to January 1 of the Covered Horse's 4-year-old year. The Authority is currently developing a system to notify the Responsible Person and Designated Owner when the Covered Horse is placed on the Veterinarians' List for all other reasons. The

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<sup>108</sup> Graham Motion, Tom Robbins, Breeders' Cup, ROCO, Dr. Lynn Hovda, and a comment submitted jointly by submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing.

Authority anticipates this notification system will be live when these rules take effect.

### **2241. Duration of Stay on the Veterinarians' List**

Rule 2241 specifies the duration of periods for which Covered Horses must remain on the Veterinarians' List. The provisions concerning multiple placements on the Veterinarians' List for unsoundness and Epistaxis remain essentially the same – multiple placements on the Veterinarians' List within a 365-day period could subject the Covered Horse to an extended period of time on the Veterinarians' List. This rule is designed to identify Covered Horses that may be at an increased risk of injury and mandate additional recovery time.

Physical distress, medical compromise, injury, infirmity, and heat exhaustion are added to illness in paragraph (a)(5) as conditions requiring a Covered Horse to remain on the Veterinarians' List for 7 days. These additions are intended to correct an oversight in the original safety rules which did not provide a duration of stay for these conditions. The 7-day period on the Veterinarians' List is consistent with standard industry practice. The phrase “a minimum” is also added to this paragraph to provide discretion to the Regulatory Veterinarian to extend the duration on the Veterinarians' List.

The Authority received a comment in response to paragraph (a)(6), questioning whether a Covered Horse is permitted to participate in training activities while on the Veterinarians' List following Shock Wave Therapy treatment.<sup>109</sup> The Authority supplemented the language in this rule to clarify that Covered Horses treated with Shock Wave Therapy are prohibited from participating in a Workout for 14 days. This permits the Covered Horse to continue light training while undergoing Shock Wave Therapy treatment, which was a request submitted by various industry participants.<sup>110</sup>

Language is added to paragraph (a)(7) to incorporate the provisions in Rule 4222

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<sup>109</sup> Tom Robbins.

<sup>110</sup> *See, e.g.*, Dr. Scott Hay.

of the Anti-Doping and Medication Control Program regarding the standdown times following administration of an intra-articular injection to a Covered Horse. The Authority believes the use and regulation of intra-articular injections is a safety issue that is best addressed in the Rule 2000 Series. This paragraph (a)(7) requires Covered Horses administered any intra-articular injection to be placed on the Veterinarians' List for 14 days and further prohibits the Covered Horses from participating in a Workout for 7 days. However, consistent with Rule 2271(a)(12), if the Covered Horse is administered a corticosteroid intra-articular injection in the fetlock joint, the duration on the Veterinarians' List is extended to 30 days.

The Authority received a question asking whether a Covered Horse may apply to perform a Workout 7 days into the 14-day period on the Veterinarians' List following administration of an intra-articular injection.<sup>111</sup> As noted above, this rule has been modified to clarify that, with the exception of corticosteroid intra-articular injections in the fetlock joint, a Covered Horse may participate in a Workout and resume training activities 7 days after being placed on the Veterinarians' List.

#### **2242. Removal of Covered Horses from the Veterinarians' List**

Rule 2242 sets forth the criteria for removal of a Covered Horse from the Veterinarians' List. Under the current rule, a process is established by which the Trainer and the Attending Veterinarian, after observing the horse jog, may submit a co-signed statement that the Covered Horse is fit to perform a Workout. New language will address diagnostics required by the Regulatory Veterinarian and application by the Trainer for permission to perform a Workout, such application to be made no less than 48 hours in advance of the Workout. A new provision in this rule specifies that: "If the Covered Horse does not perform the Workout for the Regulatory Veterinarian within 7 days, the Trainer and Attending Veterinarian must observe the Covered Horse again at the jog and

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<sup>111</sup> Breeders' Cup.

submit a new co-signed statement.” This is to ensure that the co-signed statement and Workout are taking place as contemporaneously as practically possible to avoid any significant changes to the health of Covered Horse between the time of the jog (and co-signed statement) and the Workout.

Under the current rule, a Covered Horse may be released if the Regulatory Veterinarian determines that there are no signs of Epistaxis, physical distress, medical compromise, or unsoundness. New language requires this determination to be made after the Workout, but during a period that is no less than 30 minutes and no greater than two hours after the Workout.<sup>112</sup> This range enhances safety and is in the best interests of the health and welfare of the Covered Horse.

Additional new language requires the collection of a blood sample after the Workout, and requires the Regulatory Veterinarian who conducts the Workout to communicate the results to the Regulatory Veterinarian who placed the Covered Horse on the Veterinarians’ List. Currently, some racing jurisdictions require a blood test before a Covered Horse may be removed from the Veterinarians’ List. The Authority agrees with this requirement as it enhances equine welfare. Thus, the Authority proposes this new requirement as a measure to improve equine safety and welfare of Covered Horses and to benefit the industry by creating a uniform standard for removal of Covered Horses from the Veterinarians’ List.

A new provision, in paragraph (c), states: “A Covered Horse which has not started in more than 365 days or has not made a start prior to January 1 of its 4-year-old year may perform a Workout in the presence of the Regulatory Veterinarian beginning 335 days since its last start or, if unraced, December 1st of its 3-year-old year. If the Covered Horse has not started within 60 days of being released by the Regulatory Veterinarian,

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<sup>112</sup> This is in response to comments received from Dr. Lynn Hovda, Tom Robbins, Dr. Jeff Blea, and a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

the Covered Horse must fulfill the requirements in 2242(a) again.” This “pre-clearance process” is proposed at the request of stakeholders and provides a mechanism whereby the Covered Horse may complete a Workout and submit to a blood sample beginning 335 days since the last start. If cleared by the Regulatory Veterinarian, the Covered Horse will be permitted to enter a race immediately (provided it is no later than 60 days from the date the Covered Horse was cleared by the Regulatory Veterinarian) as opposed to starting or restarting the clearance process beginning on day 365 or later. The practical effect is that horses that are approaching race readiness will not have an additional wait time imposed if they can be pre-authorized. The time between requesting an appointment to work off the Veterinarians’ List, being cleared by the testing lab, and having the right race come up for entry can be in excess of 30 days. The 60-day reset is consistent with pre-existing standard industry practice.

The following language is to be deleted from the rule: “In addition to the requirements set forth herein and any requirements of the Protocol, if a Horse is placed on the Veterinarians’ List for a positive test or overage of a primary substance invoking a mandatory stand down time, a positive Out-of-Competition test, or any other veterinary administrative withdrawal, the Horse shall be prohibited from entering a Race and may be released from the Veterinarians’ List only after also undergoing a post-Workout inspection by the Regulatory Veterinarian.” As noted above, the Authority is deleting language from Rule 2240 regarding the placement of Covered Horses on the Veterinarians’ List for positive tests. Accordingly, the Authority proposes deletion of the language in Rule 2242 concerning the corresponding procedures for removal of these horses from the Veterinarians’ List.

Multiple commenters requested clarification as to the permitted activities while a Covered Horse is on the Veterinarians’ List.<sup>113</sup> Placement on the Authority’s

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<sup>113</sup> Breeders’ Cup and the Kentucky Horse Racing Commission.

Veterinarians' List restricts a Covered Horse from participating in a Covered Horserace during the applicable period of time but, unless expressly prohibited in the rules, the Covered Horse may participate in a Workout and other training activities.

## **2250. Covered Horse Treatment History and Records**

### **2251. Veterinary Reports**

Rule 2251 sets forth the reporting requirements imposed upon Veterinarians who treat Covered Horses. The current rule specifies the information that must be provided; these requirements are modified to apply to “treatments, procedures, and surgeries performed at a location licensed by a State Racing Commission or a Training Facility.” An additional category is established in new paragraph (c): “For treatments, procedures, and surgeries performed at a location that is not a Training Facility or is not licensed by a State Racing Commission, and in addition to the information required to be submitted by Veterinarians pursuant to Rule Series 3000, every Veterinarian who examines or treats a Covered Horse shall, within 24 hours of ambulatory care, outpatient care, or discharge from a clinic or hospital, submit to the Authority the following information in an electronic format designated by the Authority:...” In response to industry feedback, the Authority proposes separate reporting requirements to ease the administrative burden on referral clinics and other medical facilities that are not licensed by the State Racing Commission. In some instances, these clinics may be providing multiple treatments per day to a Covered Horse. To reduce their compliance obligation, the Authority has limited the reporting requirements of these facilities to information that is relevant to racing eligibility and the safety and health of Covered Horses.

A commenter suggested that “all HISA Registered Vets” should be included at the beginning of paragraph (a) of this Rule.<sup>114</sup> All veterinarians that treat Covered Horses are required to register with the Authority. Thus, the Authority does not believe the addition

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<sup>114</sup> The Jockey Club.

of this language is necessary. Moreover, the Authority does not want to exclude unregistered veterinarians from reporting information to the Authority pertaining to the treatment of Covered Horses. Another commenter asked what is meant by the term “treatments” as used in this rule.<sup>115</sup> This term is intended to capture the types of treatment or practices that would require the Veterinarian to generate a written record under applicable state veterinary laws.

Finally, the Authority is proposing new language to this Rule to explicitly authorize it to utilize the information included in the treatment records for purposes of research conducted by the Authority in accordance with its mandate under the Act.

### **2252. Responsible Persons’ Records**

Rule 2252 imposes upon Responsible Persons the requirement to maintain specified categories of records of medical, therapeutic, and surgical treatments and procedures for every Covered Horse under their control. The rule specifies that treatment includes “the administration of medications that are prescribed by a Veterinarian but administered by the Responsible Person or the Responsible Person’s designee... and specifically excludes medications or procedures directly administered by a Veterinarian.” The Authority proposes deleting all references to “Veterinarians licensed by the State Racing Commission” as duplicative of the definition of Veterinarian in Rule 1020, which already includes a licensing requirement.

A commenter questioned whether the current version of (b)(3) (“specifically excludes medications or procedures directly administered by a Veterinarian....”) contradicts with the wording in Rule 3040(8).<sup>116</sup> The Authority agrees with this comment and has revised (b)(3) to include the introductory phrase “notwithstanding Rule 3040(8)” to avoid any potential conflict between the rules.

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<sup>115</sup> Keeneland.

<sup>116</sup> HBPA.

Additional language is added to clarify that the approval of the Authority is required for State Racing Commissions and Stewards to access treatment records, and that no provision of the rules shall limit the Authority's use of records submitted under the Rule 2000 Series. These changes are made to ensure the Authority may use the information for purposes of research conducted by the Authority in accordance with the Horseracing Integrity and Safety Act to enhance the safety and welfare of Covered Horses.

### **2253. Records for Covered Horses Shipping to the Racetrack**

The Authority proposes a few modifications to Rule 2253 pertaining to records for Covered Horses shipping to a Racetrack. Currently, the rule requires the Responsible Person to maintain specified treatment information regarding the Covered Horse for the "previous thirty (30) days." The Authority proposes removing this requirement to ensure all treatment information is being maintained by the Responsible Person. Moreover, the Authority proposes the addition of new categories of information to be maintained by the Responsible Person, including daily logs of exercise activities and daily logs of treatments and procedures. Finally, consistent with Rule 2251 and Rule 2252, the Authority has proposed new language authorizing it to use the information for purposes of research in accordance with the Act.

A commenter asked whether the trainer is responsible for maintaining these records or whether this rule requires submission to the Authority or someone else.<sup>117</sup> This Rule 2253 requires the Responsible Person to obtain and maintain the information set out in the Rule; there is no language in this Rule requiring the information to be submitted to the Authority, though the Authority may request the information at any time.

### **2260. Claiming Races**

### **2261. Transfer of Claimed Covered Horse Records**

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<sup>117</sup> ROCO.

Claiming races are races in which horses entered in the race may be purchased for the claiming price by a new trainer/owner. The horse becomes the property of the new trainer/owner as soon as the horse leaves the starting gate in the race. In the case of a successful claim (horse purchase), Rule 2261 effects transfer of medical records of the horse to the new trainer/owner. Knowledge of the past medical history provides information to the new trainer/owner so that the horse may be managed appropriately, given its history, and obtain the best training and medical care for the horse's optimal health. The proposed modifications to this Rule clarify the records to be transferred to the new owner as well as the process for effectuating the transfer of information.

### **2262. Void Claim**

Rule 2262 contains the Authority's void claim rule. The rule currently in effect provides the claim exceptions that if the horse dies, is euthanized, is vanned off (due to the inability of the horse to exit the racecourse), becomes unsound or medically compromised, bleeds from the nostrils (and presumably the lungs) after the race, or has a positive drug test, then transfer of the horse does not occur. The rule protects the purchaser of the horse from acquiring an injured, compromised, or dead horse and provides disincentives to trainers/owners to enter a horse that is compromised from latent injury or ailment in a race with the intent for another trainer/owner to take responsibility by claiming the horse in the race. The rule does permit the claimant the option not to void the claim if, prior to the race in which the Covered Horse is claimed, the claimant elects to claim the Covered Horse by checking the appropriate box on the claim slip regardless of whether the Regulatory Veterinarian determines the Covered Horse will be placed on the Veterinarians' List for Epistaxis or as unsound or lame. The option not to be voided by the potential new trainer/owner is useful in circumstances in which a compromised horse may be rehabilitated after the race, or where the new trainer/owner desires to acquire a horse for breeding purposes as opposed to continuing to train and race.

The void claim rule protects Covered Horses from being raced when they are not physically or medically fit to do so. The rule protects Covered Persons from purchasing a compromised horse. Racetracks, racing commissions, and the racing industry benefit because compromised horses in races are more likely to suffer a catastrophic injury, and thus the rule prevents some catastrophic or career ending injuries. The rule is now modified in a number of ways to enhance equine safety.

The current rule requires the claimed horse to go to the test barn for observation by the Regulatory Veterinarian. New provisions are added that provide more detailed requirements for the observation. A modification specifies that the horse may be sent to a test barn “or approved secured area,” since the test barn at some Racetracks is not large enough to accommodate claimed horse inspections. New provisions include a minimum period of 30 minutes during which the horse shall be periodically observed, unless excused by the Regulatory Veterinarian; a requirement that the horse be jogged to determine if the horse exhibits signs of Epistaxis or is unsound or lame; and a specific direction that the horse be observed for Epistaxis, or any other clinical abnormalities. If a horse is placed on the Veterinarians’ List for Epistaxis, or is unsound or lame, a new rule requires the Regulatory Veterinarian to inform the Stewards, who may order the claim to be voided.

Current language has been re-worked and new provisions added stating that if a post-race sample collected from a horse that is claimed results in an Adverse Analytical Finding (as that term is defined in the Rule 1000 Series), the claimant is provided 48 hours to exercise the option to void the claim. This rule was the subject of much analysis and consideration during its development, and comments expressed a number of divergent views concerning the rule. If a Prohibited Substance is determined to be present in the Covered Horse, the claimant should have the option to void the claim in part because the Prohibited Substance may have enhanced the performance of the horse.

Claimants should have the option to void the claim under these circumstances, since the horse's performance in the race is not reflective of its actual abilities in a race. However, in those instances in which the Prohibited Substance does not alter the value of the horse to the claimant, the claimant should have the option to keep the horse. This might be the case if the claimant desires to purchase the horse for breeding purposes, rather than to run the horse in future races.

New provisions are added that specify that the claim may not be voided if the Covered Horse makes a start under the new owner, if the new owner fails to exercise due care in maintaining and boarding the Covered Horse, makes material alterations to the horse, or if the Covered Horse dies or is euthanized, as these acts demonstrate an intent on the part of the claimant to exercise ownership of the horse and could result in physical changes to the horse. The meaning of the term "material alterations" is left open-ended to provide flexibility in its application to varied circumstances that can constitute and alteration.

Finally, a new provision is added to permit the claimant whose claim is voided to recover all sums paid, as well as reasonable expenses incurred for care of the horse while the horse was in the care, custody, and control of the claimant. This conforms with pre-existing industry practice.

### **2263. Waiver Claiming Option**

Under the Waiver Claiming Option Rule, if a horse trainer/owner has rehabilitated a horse and wishes to start the horse in a race, the trainer/owner can start the horse in a claiming race without the possibility of the horse being claimed by another trainer/owner. This allows a horse trainer/owner to take time to rehabilitate a horse and then start the horse in a race without the possibility of losing the horse to another trainer/owner. The rule incentivizes trainers/owners to rehabilitate horses for long term health and an extended racing career. A new provision is added which allows a Responsible Person to

declare a Covered Horse to be ineligible to be claimed for a second consecutive race provided certain conditions are met, including (1) the waiver was asserted in the first race back; (2) the horse does not win its first race back; (3) no change in majority ownership; and (4) the horse is entered in a claiming race with a claiming price equal to or greater than the claiming price for which it last started. Permitting a second consecutive waiver encourages owner/trainer continuity and is in the best interest of the Covered Horse.

## **2270. Prohibited Practices and Requirements for Safety and Health of Covered Horses**

### **2271. Prohibited Practices**

This rule regulates the use of practices that: (1) mask pain to allow horses to train and race with injuries or joint disease (*e.g.*, neurectomy, shock wave therapy, electrical medical devices); (2) induce inflammation and pain with the intent to speed healing of injured structures (*e.g.*, pin-firing); or, (3) cause pain to stimulate a horse to run faster (*e.g.*, electrical shock). Certain specific practices (such as shock wave therapy) are also addressed in specific rules in this section. The rule is intended to prevent abuse of racehorses by preventing the masking of pain that allows horses to train and race while injured, and by preventing the stimulation of pain to coerce racehorses to perform beyond their athletic potential. Inhumane and dangerous practices on racehorses will be prevented.

This rule also prohibits horses within the foal crop of 2023 or later from participating in a Covered Horserace or a Timed and Reported Workout if they have been subject to pin-firing of any structure or freeze-firing of the shins (dorsal surface of the third metacarpal/metatarsal bones). These procedures are associated with permanent, material alterations to the horse and this rule is designed to deter owners, trainers, and veterinarians from performing these practices on future Covered Horses.

Paragraph (a)(9) is modified to prohibit use of any medical therapeutic device

requiring an external power source within 48 hours prior to the start of the published post time for which a Covered Horse is scheduled to race. The Authority received two comments suggesting the addition of “battery operated devices” to this list; however, the Authority believes these devices are already captured by the rule as written.<sup>118</sup>

Sections (a)(11) and (a)(12) of the rule contain mandatory standdown times following the administration of an intra-articular injection. Any Covered Horse treated with any intra-articular injection of any joint shall not be permitted to perform a Workout for 7 days following treatment or participate in a Covered Horserace for 14 days following treatment. However, if the Covered Horse is treated with a corticosteroid intra-articular injection of the metacarpophalangeal or metatarsophalangeal joint, the horse shall not be permitted to perform a Workout for 14 days following treatment or participate in a Covered Horserace for 30 days following treatment. One commenter opposed this increased standdown time for fetlock joint injections, claiming that these joints should be treated the same way as other joints.<sup>119</sup> The Authority disagrees.

Approximately 50 percent of musculoskeletal fatalities are attributable to an injury to the fetlock joint. The administration of corticosteroids to the fetlock joint can alleviate inflammation and pain associated with abnormalities that promote injury in this joint, leading to potential overexertion, injury, and catastrophic breakdown. Introduction of a mandatory standdown time from training and racing activities provides an additional safety margin for horses to recover from abnormalities that promote injury and reduce susceptibility to catastrophic injury to this high-risk joint.

One commenter stated that the increased standdown time for fetlock joint injections should be limited to corticosteroids.<sup>120</sup> The Authority agrees with this

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<sup>118</sup> Dr. Lynn Hovda and a comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders' Cup, and 1/ST Racing.

<sup>119</sup> Dr. Scott Hay.

<sup>120</sup> Dr. Jeff Blea.

recommendation and the proposed language limits the increased standdown time to corticosteroid injections.

Finally, a new penalty section sets forth escalating fines and suspension periods to be assessed against the Responsible Person for successive violations within a 365-day period. In addition, if the Covered Horse involved is the subject of two or more violations with a 365-day period, the Covered Horse may be placed on the Veterinarian's List for 30 days.

### **2272. Shock Wave Therapy**

This rule regulates the use and monitoring of a treatment (Shock Wave Therapy) used on bone, tendon, and ligament injuries. Shock Wave Therapy can also provide pain relief that allows affected horses to continue to train and race on a mild injury. Continued training and racing on a mild injury could precipitate a career ending or catastrophic injury. The rule addresses the problem by closely monitoring treatments and requiring treated horses to refrain from training at high speed or racing until an appropriate time for rehabilitation of the injury that was treated. The rule enhances safety of Covered Horses by reducing the incidence of career ending and catastrophic injuries. Because Jockey injuries are associated with horse falls due to catastrophic injuries during high-speed training and racing, the rule also enhances Jockey safety and welfare.

There are new reporting requirements incorporated into this rule. The industry has long recognized the concern that underreported Shock Wave treatments could be associated with equine musculoskeletal injury. Administration of Shock Wave Therapy must be reported by the treating Veterinarian to the Authority within 24 hours after treatment and by the Responsible Person to the Regulatory Veterinarian within 48 hours after treatment. This dual-reporting requirement is essential for promoting Rider and equine welfare and ensures the Covered Horse is placed on the Veterinarians' List following Shock Wave Therapy treatment.

This rule also contains a slight expansion to the registration requirement for machines used to administer Shock Wave treatment. The rule now makes clear that these machines are required to be registered with the Authority, if they are being used to treat Covered Horses. The Authority's previous registration requirements reflected the industry's interest in understanding the locations where Shock Wave treatments were being administered. Knowing that Shock Wave treatment machines are in use at facilities not licensed by State Racing Commissions, this new registration requirement is intended to extend the industry's pre-existing registration requirements to include unlicensed locations.

Finally, this rule contains enhanced penalties for a failure to report Shock Wave Therapy treatment. A commenter expressed concern over the leniency of the existing penalties for a failure to report treatment, which included a 5-day suspension for a first offense.<sup>121</sup> The commenter urged the Authority to adopt the penalty schedule established in the ARCI Model Rules, which carries a minimum 1-year suspension and \$10,000 fine for a first offense. The Authority agreed that enhanced penalties are in the best interests of Covered Horses and Riders and has proposed a penalty structure that more closely aligns with the ARCI Model Rules.

### **2273. Other Devices**

This rule currently prohibits the possession of any device which is designed to increase or retard the speed of a Covered Horse, with the exception of riding crops. The rule is in place in all US racing jurisdictions. The penalty for noncompliance is not standard across jurisdictions and varies from a 10-year loss of racing license to suspensions and fines. The rule is intended to standardize the language nationally and standardize sanctions. Stewards will have national standardized language and sanctions when adjudicating cases and issuing sanctions. Covered Persons will know that the

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<sup>121</sup> The Jockeys' Guild.

industry considers the use of performance-affecting devices a serious issue.

Initially, the rule was intended to cover horses in racing and training. Now the coverage of the rule is expanded to embrace horse welfare in the context of any use of prohibited devices upon Covered Horses. The rule is modified to prohibit devices that are “purchased, designed, or used with the intent” to retard or increase the speed of a Covered Horse. This will preclude, for example, use of a cattle prod on the grounds, even though a cattle prod is not specifically designed to be used on a horse. The phrase “or during a Workout” is deleted as unnecessary due to the fact workouts are conducted on Racetrack grounds.<sup>122</sup>

A commenter suggested that various specific items that might be used as prohibited devices be specifically listed.<sup>123</sup> The Authority prefers to the more flexible language referring to “electrical, mechanical, or other devices,” as it expresses more broadly any type of device is prohibited that may be used to retard or increase the speed of a Covered Horse and will also capture devices that are not currently known by the Authority.

#### **2274. Other Device Penalties**

Rule 2274, which provides the penalties for violation of Rule 2273, is modified to impose restrictions upon registration with the Authority as the penalty for violations of Rule 2273. The modification deletes the reference to loss of eligibility “to obtain a racing license in all racing jurisdictions.” The change is made because restrictions upon registration with the Authority are more appropriate penalties imposed by the Authority.

#### **2275. Communication Devices**

Rule 2275, which regulates the use of communication devices by Riders, is modified to clarify that the prohibition upon the use of a hand-held communication

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<sup>122</sup> A comment by the CHRB prompted deletion of the reference to “Workout.”

<sup>123</sup> ROCO.

device applies to a Rider who is mounted on a “Covered Horse or Pony Horse.” Two commenters questioned whether this rule should be revised to clarify whether this prohibition applies to just the racing surface or all areas of the racetrack.<sup>124</sup> The term “Rider” is limited to persons mounted on a Covered Horse or Pony Horse on the racing surface. Therefore, the rule is already clear that the prohibition on the use of hand-held communication devices applies just to the racing surface.

Several commenters expressed concerns that the rule might prohibit the use of two-way radios entirely.<sup>125</sup> The rule does not prohibit two-way radios that, as an example, clip onto a vest and are equipped with a shoulder microphone. The purpose of the rule is to prohibit the use of devices that are hand-held and interfere with a Rider’s control of the horse.

In addition to the above, a new provision is added that states: “A Rider, while on a Covered Horse or Pony Horse, shall not wear an audio device that obstructs or impairs the Rider’s ability to hear other horses, Riders, hazards, or the Racetrack’s emergency warning system.” This rule does not prohibit the use of hearing aids, which enhances hearing, but rather is intended to prohibit, for example, audio devices on both ears with noise cancelling features.

### **2276. Horseshoes**

The rule limits the height of rims used as traction devices on forelimb and hindlimb horseshoes. The rule prohibits use of any other traction devices except in specific circumstances. Traction devices affect the interaction of the hoof with the racetrack surface, altering movement of the hoof through the racetrack surface. That reduction of movement contributes to catastrophic breakdowns and skeletal injuries. The rule follows the scientific evidence that shows that traction devices increase equine

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<sup>124</sup> Dr. Jeff Blea and 1/ST Racing.

<sup>125</sup> Barbara Borden, ROCO, Jockeys’ Guild, The Jockey Club.

injuries. The rule is intended to increase the safety of Riders and Covered Horses by reducing the number of accidents resulting from injuries associated with the use of traction devices. The rule will standardize traction device use nationwide.

The Authority proposes modifications to this Rule to establish specific prohibitions on the use of traction devices based on the type of racing surface (dirt, synthetic, and turf). A commenter requested clarification as to whether certain inserts and wear plates would be considered a prohibited traction device under this rule.<sup>126</sup> The Authority has addressed this question through the creation of a new definition for “Traction Device” in the definitions section of Rule 2010. This definition clarifies that “Traction Device” includes “any device that extends beyond the ground surface of the horseshoe and includes but is not limited to inserts, wear plates, rims, toe grabs, bends, jar calks, stickers, ice nails, frost nails, and mud nails.”

#### **2280. Use of Riding Crop**

Allowing use of the crop enhances safety of Covered Horses and Riders. The rule limits the number of times the crop can be used for encouragement. The rule unifies crop design and use of the crop across all jurisdictions. The rule unifies penalties for crop abuse or use of prohibited devices across jurisdictions. There has been heated debate about use of the riding crop, especially for encouragement. Some believe the new crops do not hurt the horse at all, while others remain concerned about the public perception of using a crop for encouragement. The rule allows riding crop use for safety of the horse and Jockey. It also limits the number of times the crop can be used for encouragement during a race. This compromise of use of the crop for safety, and limited use for encouragement that will be unified across racing jurisdictions is in the best interest of the horses, horsemen, the owners, the Jockeys, the betting public, racing commissions, and the general public. The rule is intended to protect horses from excessive use of the crop.

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<sup>126</sup> Dan Burke.

Jockeys will have a clear understanding of crop use rules and will be able to adapt their usage due to uniformity of the rules.

The Authority proposes additional language clarifying that a tap to the shoulder of the horse is permitted and does not count towards the 6 permitted uses of the crop as set forth in Rule 2280. The Rule is modified to make clear that the rule applies to Jockeys who use a riding crop on a “Covered Horse.” A new provision is added that prohibits a Jockey from striking a Covered Horse with any other object than a riding crop that conforms to the requirements established in Rule 2281.

Commenters urged that additional strikes be permitted depending upon the length of the race, or that the number of permitted strikes be increased under varying circumstances.<sup>127</sup> The Authority believes that 6 strikes is an appropriate limit, and that the length of the race is less significant as most crop use takes place in the final stretch. The Authority also notes that the exception concerning use of the crop for safety purposes provides proper flexibility in the use of the crop.

Commenters suggested that the language in this rule be modified to make clear that the riding crop rules apply only to Covered Horseraces so that Racetracks and State Racing Commissions can further limit the use of the crop during training activities.<sup>128</sup> The Authority believes this is an appropriate modification and has revised this rule to clarify that it only applies “during a Covered Horserace.”

### **2281. Riding Crop Specifications**

The Authority proposed numerous modifications to Rule 2281. Paragraph (c) is modified to include the word “flap” in addition to “smooth foam cylinder” to permit the use of riding crops that incorporate a flap, rather than a foam cylinder. This will permit the use of additional riding crops which may be used safely and effectively by Jockeys.

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<sup>127</sup> The Jockeys’ Guild, HBPA, Christine Sanchez.

<sup>128</sup> Comment jointly submitted by NYRA, Del Mar, Keeneland, Churchill Downs, Breeders’ Cup, and 1/ST Racing.

Paragraph (c)(6) is modified to require riding crops to “have a mark identifying the name and manufacturer of the crop.” This language was suggested by a commenter and will assist in ensuring compliance with the riding crop specifications.<sup>129</sup> The requirement that the riding crop bear a label stating that the riding crop meets the Rule 2281 standards is deleted as unnecessary.

A commenter suggested that the rule explicitly require riding crops to be tested for durability and use.<sup>130</sup> The Authority appreciates the comment. There are currently no standards for durability testing of crops. The Authority has initiated the process for development of a durability test and will reconsider this comment when an appropriate test is available.

### **2282. Riding Crop Violations and Penalties**

The proposed modification for Rule 2282 will alter the system of penalties applicable to riding crop violations. The new system establishes a scale of penalties that escalate in severity as the purse value of the race increases. Some members of the industry believe that the imposition of the same penalties upon Jockeys regardless of purse size, is too severe as applied to Jockeys running at small tracks for small purses, and that the Jockeys running in high stakes races should be penalized more heavily for violations. The rule will be based upon five tiers of purse levels, and will impose fines, suspensions and disqualifications that are tailored to the particular tier. The rule will benefit Jockeys and other Covered Persons by ensuring that riding crop violations result in meaningful penalties that are fairly administered. The number of riding crop violations has declined significantly since the implementation of the riding crop rule on July 1, 2022. The Authority believes that the rule is having the desired effect upon excessive use of the crop at Covered Horseraces.

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<sup>129</sup> The Jockeys’ Guild.

<sup>130</sup> *Id.*

A commenter suggested increasing the purse level on the lowest tier, which is set at \$9,000.00 in the proposed rule.<sup>131</sup> The Authority believes the current purse levels as matched with penalties are appropriate and fair to Jockeys at all levels of competition. Another commenter opined that horses should not be disqualified as part of the penalty against the Jockey.<sup>132</sup> The Authority believes the penalty of disqualification is appropriate as applied to violations by the penalty scheme. Among other things, this penalty disincentivizes trainers/owners from encouraging Jockeys to violate the crop rule for purposes of winning races, and in some instances paying the jockey penalty for the Jockey. The Authority's Racetrack Safety Committee studied all aspects of the riding crop rule thoroughly and over a prolonged period, and received a great deal of comment and advice from Jockey experts in the industry. The Authority believes the penalties achieve an equitable balance as applied to all Jockeys.

Another commenter asked who is responsible for adjudicating the initial violation of the riding crop rule.<sup>133</sup> This question is addressed by Rule 8320, which states that the Stewards shall adjudicate all alleged violations of Rule 2280 relating to the use of the riding crop.

### **2283. Multiple Violations**

Rule 2283 is modified by the establishment of a new set of rules concerning multiple violations of the Rule 2280 riding crop rules. The point system in the current rule will be deleted, and replaced by a system in which an escalating multiplier is applied to repeated violations in the previous 180 days. A commenter has urged that the severity of the penalties is excessive.<sup>134</sup> The Authority closely studies and monitors the riding crop use and the imposition of appropriate penalties, and will consider all views

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<sup>131</sup> Breeders' Cup.

<sup>132</sup> HPBA.

<sup>133</sup> Keeneland.

<sup>134</sup> The Jockeys' Guild.

expressed by members of the industry. As one commenter noted, “multiple violation penalty rules for riding crop violations were recommended to better ensure compliance, deter excessive use of the riding crop, and give teeth to the new requirements.”<sup>135</sup> The Authority agrees. The Authority believes that the riding crop rule is operating very effectively as a deterrent, and this multiple violation rule is vital to the safety and welfare of Covered Horses as it disincentivizes “jockeys who routinely flout the new riding crop rules.”<sup>136</sup>

#### **2284. Redistribution of Purse**

Rule 2284 is a proposed new rule, which states: “Upon the disqualification of a Covered Horse from a Covered Horserace pursuant to the Rule 2000 Series, the purse shall be redistributed in accordance with the revised order of finish.” The rule is meant to resolve any confusion concerning whether post-race redistribution of purses should be carried out by the Stewards upon disqualification of a horse under the Rule 2000 Series; the rule affirmatively requires the redistribution of the purse in accordance with the order of finish.

#### **2285. Intermediate Appeal of Violations**

A new proposed Rule 2285 establishes a level of intermediate appeal of rulings issued to Jockeys by the Stewards for violations of the riding crop provisions in Rules 2280 and 2281. The rule provides that the appeals shall be heard initially by a three-member appeal panel appointed from the pool of adjudicators who constitute the Internal Adjudication Panel as established under the Rule 7000 Series. Any decision rendered by the Internal Adjudication Panel is appealable to the Board of the Authority, who may hold a hearing on the matter, or in the alternative may decide the appeal based upon the record and any written submissions required to be filed by the Board. The Board also has

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<sup>135</sup> THA.

<sup>136</sup> *Id.*

the option to adopt the decision of the Internal Adjudication Panel. The rule will benefit Jockeys by affording a prompt appeal to the Internal Adjudication Panel. The expeditious nature of the appeal process will benefit the administration of the riding crop rule generally, a rule which is vital to serve the safety and welfare of Covered Horses.

#### **2286. Procedures for Adjudications of Violations in the Rule 2200 Series**

New proposed Rule 2286 is strictly procedural in nature, and establishes that the violation cases referred to the Internal Adjudication Panel or an Arbitral Body pursuant to Rules 8320(b)(1) and (b)(2) shall be adjudicated according to the procedures set forth in Rule 8340(c) through (j).<sup>137</sup> The Rule 8340 procedures are a comprehensive set of rules that will provide the necessary structure for efficient administration of appeals by the Internal Adjudication Panel and the Arbitral Body.

#### **2287. Provisional Suspension of Registration**

This proposed Rule 2287, Provisional Suspension of Covered Person's Registration, was distributed for public comment in July 2023. The Authority received numerous comments and made significant revisions to address the concerns raised in the industry comments. Under this rule, the Authority may issue a show-cause notice concerning a provisional suspension of a Covered Person's registration if the Authority or the Stewards have reasonable grounds to believe that the actions or inactions of a Covered Person present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the Covered Person of the Authority's safety rules. The show-cause notice will include an itemization of the rules which the Covered Person is believed to have violated, the corrective actions suggested to achieve compliance, a request for a written response from the Covered Person, and a statement indicating that the Covered Person may request a provisional hearing within 3

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<sup>137</sup> The Internal Adjudication Panel is also referred to as the National Stewards Panel throughout the Authority's Rule Series. The Authority's proposed modifications to its various Rule Series include updating all references to the National Stewards Panel to the Internal Adjudication Panel.

days of receipt of the notice. The Covered Person's registration would not be suspended during the time between receipt of the show-cause notice and the provisional hearing unless the Stewards or the Authority have clear and convincing evidence that the actions or inactions of the Covered Person present an immediate threat of serious injury or death to Covered Horses or Riders.

A Covered Person who has received a show-cause notice or whose registration has been provisionally suspended is entitled to a provisional hearing to be conducted by the Internal Adjudication Panel, an independent Arbitral Body, the state Stewards, or a panel of 3 board members appointed by the Board chair. The provisional hearing would be conducted within 3 business days of receipt by the Authority of the Covered Person's request for a provisional hearing. The sole issue to be determined at the provisional hearing is whether the Covered Person's provisional suspension of registration shall remain in effect, go into immediate effect following the provisional hearing, be stayed pending a final hearing under this rule, or be withdrawn. The burden is on the Authority to demonstrate good cause why the provisional suspension should remain in effect, go into immediate effect, or be stayed pending a final adjudication. Within 72 hours of the conclusion of the provisional hearing, the adjudicatory panel will issue a written decision determining whether the provisional suspension shall remain in effect, go into immediate effect, be stayed pending a final adjudication, or be withdrawn.

The Covered Person may seek prompt review of any decision rendered at the provisional hearing by requesting a final hearing, which will take place within 14 days of the Covered Person's request for a final hearing. The final hearing will be conducted by a quorum of the Board and, if the provisional hearing was conducted by a panel of Board members, the Board members that participated in the provisional hearing would be precluded from participating in the final hearing. The final hearing will be conducted pursuant to the procedural rules established in Rules 8340(d) through (j), which provide

for a full presentation of evidence and place the burden on the Authority to demonstrate, by a preponderance of the evidence, that the Covered Person is in violation of the Authority's safety rules.

Within 7 days of the conclusion of the final hearing, the Board may (1) order that the Covered Person's registration be reinstated, suspended, or revoked; (2) reinstate registration subject to any requirements the Board deems necessary to address the specific safety violations; and/or (3) impose a fine in an amount not to exceed \$50,000. The outcome of the final hearing of the Authority will be considered a final civil sanction subject to appeal and review in accordance with the provisions of 15 U.S.C. 3058.

### **2290. Requirements for Safety and Health of Riders**

#### **2291. Jockey Eligibility**

Rule 2291 requires that a Jockey have a physical examination, including baseline concussion testing, in order to be eligible to ride in races. The rule ensures that Jockeys are physically fit and capable of riding without endangering themselves or other participants during a race.

Rule 2291 is modified to make more explicit the requirements for the physical examination and baseline concussion test required of Jockeys on an annual basis or more frequently as needed following illness, injury, or other circumstances impacting a Jockey's fitness to participate. The modified rule will serve to specify the concussion assessment tools applicable to the baseline concussion test. New provisions are added by the modified rule that require Jockeys to submit to the Authority documentation concerning fitness to ride, physical examination and the concussion test.

Some commenters raised concerns concerning HIPAA laws and medical record privacy issues.<sup>138</sup> These issues have been resolved, as the Authority has engaged with a third-party HIPAA compliant medical records organization to receive medical

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<sup>138</sup> 1/ST Racing; Tracks.

information. The new rule directs all Jockey medical records to be submitted to the third-party electronic platform. Another new provision requires Jockeys to execute a written authorization permitting the release of medical information as needed to assist in the collection or receipt of Jockey eligibility documentation and coordination of care in response to racing related injury or illness.

A commenter recommended referencing the rules applicable to international Jockeys who arrive in the United States for a specific event.<sup>139</sup> There is no need to revise Rule 2291 in this way; the rules of the Authority apply in all respects to international Jockeys in the same way as they apply to all other jockeys. Another commenter urged the Authority to require cross-track concussion reporting for Jockeys.<sup>140</sup> The Authority agrees and this is being undertaken by the Authority as part of the partnership with the third-party medical records organization.

### **2292. Rider Medical History Information**

Rule 2292 is modified to replace the words “Jockey and exercise rider” with the word “Rider.” Rider is a newly proposed defined term, which states: “*Rider* means any person who is mounted on a Covered Horse or Pony Horse on the Racetrack, including a Jockey.” The modification of Rule 2292 thus extends the requirements concerning medical information cards to all persons mounted on a Covered Horse or Pony Horse on the racetrack. This enhances the safety and welfare of additional mounted racing participants. If a Rider is injured, the medical information card provides medical responders with vital information about the injured Rider’s medical history and condition, which may be important for the provider.

### **2293. Equipment**

Rule 2293 sets forth the standards for helmets and vests. The rule is modified to

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<sup>139</sup> Breeders’ Cup.

<sup>140</sup> THA.

delete the term “stable pony” and include instead the word “Pony Horse,” in accordance with the new definition for that term. A new rule in paragraph (b)(2) requires all Starting Gate Persons to “securely attach to their safety vest one or more medical information cards describing their medical history and any conditions pertinent to emergency care, including a listing of any previous injuries, drug allergies, and current medications.” The addition of this rule was suggested by a commenter, and parallels the similar rule medical card for Riders in Rule 2292.<sup>141</sup>

#### **2294. Weight of Riders**

Rule 2294 is a new proposed rule, which states: “The weight of an approved safety helmet and an approved safety vest will be excluded from the required weight to be carried by a Jockey during a race.” This rule encourages use of helmet and safety vest without consideration of the effect on applicable weight requirements.

Jurisdictions vary in their rules concerning whether helmets and vests are to be included in required weight. Under Rule 2294, the rule is standardized. A commenter suggested that the Authority address the issue of establishing the minimum weights for Jockeys nationwide.<sup>142</sup> The Authority will consider this proposal in future rulemaking.

### **III. Compliance with the Commission’s March 27, 2023 Order**

In accordance with the Commission’s March 27, 2023 Order, the Authority’s submission in support of the proposed rule modification discusses each of the suggestions made by commenters on the *Federal Register* from the original Racetrack Safety Rule submission where the Authority in its February 2, 2022 Letter committed to further consider the suggestions. The Authority’s response to each of the suggestions is set out below.

1. A commenter urged the Authority to establish a sub-committee of the Safety Committee formed to propose and draft “Jockey, Exercise Rider, and Horsemen Health Protocols.”

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<sup>141</sup> Breeders’ Cup.

<sup>142</sup> The Jockeys’ Guild.

The Authority has not yet established any subcommittees of the Racetrack Safety Committee. To date, the Committee has relied upon, and frequently seeks input from, industry participants and subject matter experts to assist the Committee in developing safety rules and otherwise implementing the Racetrack Safety Program. The Authority believes there is value in utilizing subcommittees to research and dive more deeply into the racetrack safety issues and will consider developing subcommittees in the near future.

2. Two commenters criticized the removal of the purse to claim price ratio that was contained in earlier drafts of the Racetrack Safety Rules.

The Racetrack Safety Committee again considered the issue of developing and implementing rules regarding a purse-to-claim ratio. The Committee received comments urging it to adopt a purse-to-claim ratio and this topic was debated extensively by the Committee over the last several months. The Committee declined to adopt such a rule, determining that it lacks sufficient data at this time. The Committee will continue to study this issue and may, at the appropriate time, develop rules regarding a purse-to-claim ratio. The Authority notes that, until that time, existing racetrack rules and state laws concerning a purse-to-claim ratio will continue to apply.

3. Two commenters stated that the definition of Claiming Race is not clear.

The safety rules currently in effect contain the following definition of “Claiming Race”:  
“a Race in which a Horse after leaving the starting gate may be claimed in accordance with the rules and regulations of the applicable State Racing Commission.” The Authority is proposing a modification to this definition, which will incorporate the definition of “Claiming Race” from the Rule 1000 Series of the ADMC Program: “a Covered Horserace in which a Covered Horse after leaving the starting gate may be claimed in accordance with the rules and regulations of the applicable State Racing Commission.” This proposed modification clarifies that application of the definition is limited to Covered Horses and Covered Horseraces. The Authority did not receive any

comments on this definition during the informal comment periods and believes this modification makes this definition sufficiently clear.

4. Two commenters suggested that the term exercise rider and catastrophic injury be added to the definitions.

The Authority agrees and has proposed adding both “Catastrophic Injury” and “Exercise Rider” to the list of defined terms in the definitions section of the Rule 2000 Series.

5. A commenter urged the Authority to develop rules permitting it to suspend accreditation in emergency situations.

The Authority has proposed Rule 2117, which, if approved, will permit the Authority to suspend racing activity in a short period of time if “the Authority has reasonable grounds to believe that the conditions or operations of a Racetrack present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the Racetrack of the Authority’s racetrack safety or accreditation rules.” *See* Rule 2117(a)(1).

6. A commenter urged that the period of accreditation in Rule 2114(2) be changed from one to seven years to one to five years.

It is important to note that under Rule 2114(a)(1), accreditation is effective for three (3) years, and the one (1) to seven (7) year period modification in Rule 2114(a)(2) is only utilized if the Authority determines that such modified period will be consistent with the requirements of Accreditation outlined in the Rule 2100 Series. To further alleviate the concerns expressed by this commenter, the Authority notes that it has the authority – regardless of the number of years of Accreditation granted under Rule 2114(a)(2) – to suspend or revoke a Racetrack’s accreditation if the Racetrack is in material noncompliance with the Accreditation requirements. *See* Rules 2116 and 2117.

7. One commenter suggested that the Medical Director should oversee the medical needs not only of jockeys, but of all covered persons and invitees while on covered racetracks.

The Horseracing Integrity and Safety Act recognizes the Authority to exercise exclusive national authority over Covered Persons, which are defined in the Act as “all trainers,

owners, breeders, jockeys, racetracks, veterinarians, persons (legal and natural) licensed by a State racing commission and the agents, assigns, and employees of such persons and other horse support personnel who are engaged in the care, training, or racing of covered horses.” The Authority does not have jurisdiction over non-Covered Persons.

8. A commenter maintained that the first sentence of Rule 2133(c) needs to be amended to include the following underlined words: “The requirements of this Rule for any steward employed or contracted by a State Racing Commission are subject to the applicable State Racing Commission electing to enter into an agreement with the Authority.”

The Authority agrees and has proposed this amendment to Rule 2133(c).

9. One commenter noted that Rule 2142(b) requires that all entered horses must be inspected no later than one (1) hour prior to scratch time. The commenter states that racing jurisdictions have different scratch times ranging from a few hours to one day prior to the race. Therefore, the rule should be changed to require inspection on race day not later than one (1) hour prior to scratch post time for the race in which the horse is to compete.

In recognition of this comment, the Authority has proposed an amendment to this rule to require the inspection of the horse to be completed “prior to starting in the Race for which it is entered on Race Day.” (The provision has been renumbered and now appears at 2142(c)).

10. One commenter suggested that the phrase “may be placed on the Veterinarians’ List” be changed to “shall be placed on the Veterinarians’ List” in Rule 2142(d).

In recognition of this comment, this change has been proposed by the Authority. (The provision has been renumbered and now appears at 2142(e)).

11. Two commenters requested stricter requirements for the construction of the racetrack rails and the elimination of the use of wooden rails in Rule 2153.

The Racetrack Safety Committee consulted several of the industry’s safety rail experts and proposed amendments to Rule 2153 to require specific rail heights. The Racetrack Safety Committee will, through the Accreditation process, evaluate Racetrack rails to determine compliance with 2153(a)(1), which requires that the rails be “designed, constructed and maintained to provide for the safety of Riders and Covered Horses.”

Regarding the elimination of the use of wooden rails, the Racetrack Safety Committee

maintains that this issue deserves additional discussion and deliberation. If this deliberation concludes that it is appropriate to eliminate wooden rails, this issue will be addressed in future modifications of the rules.

12. One commenter opined that the emergency warning system should include mandatory use of lights and sirens for both racing and training [Rule 2153].

Rule 2153(e) (previously (d)), states that each Racetrack “shall have an operational emergency warning system on all racing and training tracks. The emergency warning system shall be approved by the State Racing Commission, subject to the applicable State Racing Commission electing to enter into an agreement with the Authority. If such agreement does not exist, the emergency warning system shall be approved by the Authority.” The Racetrack Safety Committee believes that Racetracks and, where applicable, the State Racing Commissions are in the best position to determine the type of warning system that is most effective in their racing environment. Further discussions regarding the standardization of a warning system will continue as additional data is gathered.

13. A commenter stated that Rule 2162 needs to add a requirement that biological samples be collected in all instances of catastrophic injury, not just those injuries that occur during racing and training.

The language regarding collection of biological samples has been struck from the safety rules, following the program effective date of the ADMC rules. It is HIWU protocol to collect samples from all fatalities when practical, and proposed rule 5436(1) will require samples to be collected “in case of any fatality howsoever occurring.”

14. One commenter objected to the stewards making the determination of whether a Jockey who falls or is thrown from a horse may continue riding.

Proposed Rule 2166(d) addresses this commenter’s concern as the new language in the rule clarifies that it is a medical provider who is making the determination of whether a Jockey should continue riding following an incident: “Any Jockey who falls or is thrown from a Covered Horse during a race shall be examined by a medical provider experienced

in concussion management and familiar with the HISA Concussion Protocol. The medical provider shall report their findings to the Stewards who, upon the recommendation of the medical provider shall order the Jockey taken off any remaining mounts.”

15. One commenter suggested that insurance coverage should be included in the collected data under Rule 2167, and asked who will analyze the data and how the data will be used. The commenter also enquired concerning private medical data.

Racetracks are responsible for designating a person to collect the data in their respective standard operating procedures. The data collected can be analyzed to determine risk factors for injury and can thus be used to further develop and implement injury prevention measures. The Racetrack Safety Committee does not currently believe that insurance information should be included in the list of information collected under this rule as it is not relevant to the evaluation of contributory factors and safety intervention measures.

16. The commenter stated that Rule 2168 does not provide minimum standards for equipment necessary to treat a horse or remove a horse from the track.

The Authority has proposed modifications to the Equine Ambulance Rule (Rule 2168) to now include the following minimum standards for the track’s dedicated equine ambulance: (1) navigate on the racetrack during all weather conditions; (2) safely transport a horse off the association grounds; (3) contain equipment to stabilize distal limb injuries; and (4) remove a recumbent horse from the racetrack.

17. One commenter claimed that section (b) of Rule 2170 contradicts itself by first stating that necropsies should be performed by personnel with capabilities and expertise to perform necropsy examination of racehorses and subsequently implying that a veterinarian always performs a necropsy. The commenter suggests that the second sentence could be amended to read: “An Attending Veterinarian of the affected Horse should never perform the necropsy.”

Rule 2170 has been significantly revised and the language of concern has been struck altogether.

18. One commenter stated that it is not practical for Jockeys to complete 2 hours of continuing education before each meet.

Under the Authority's proposed modifications to Rule 2182, Jockeys will need to complete just 2 hours of continuing education each year. Thus, the concerns raised in this comment have been addressed.

19. Commenters made the following significant comments regarding Rule 2182: (i) the burden to create training content should not fall on the State racing commissions; (ii) continuing education specific to racetrack regulatory and racetrack practice is not consistently offered and available; (iii) the rule requires grooms to complete continuing education offered in English and Spanish and asked whether it is a violation of the rule if a groom completes a training that is only available in English, or only available in Spanish; (iv) bilingual continuing education be available for trainers and outriders; and (v) asked who is responsible for arranging and administering the continuing education.

It is important to note that any role for a State Racing Commission in the continuing education rule is subject to the State Racing Commission entering into an agreement with the Authority. In response to (i), (ii), and (v), the Authority states that Rule 2182 requires the State Racing Commission to identify existing, or provide locally, training opportunities for the individuals referenced in Rule 2182(b). The State Racing Commissions are not required to create content to comply with this Rule. The Authority is currently developing a process for approval of continuing education content. Regarding (iii), the Authority states that it would not be a violation of Rule 2182 for a groom to complete training that is only available in English or only available in Spanish. Finally, in response to (iv), the Authority states that bilingual continuing education will be made available for trainers and outsiders.

20. One commenter stated that all racing officials and licensees in positions that allow them to affect the outcome of a race or diminish the conditions of safety or decorum should also be subject to drug and alcohol regulations.

The Racetrack Safety Committee recognizes the Jockey's uniquely hazardous role in horseracing and feels strongly that a testing program for drug and alcohol use for Jockeys is critical to increasing safety during training and racing. The expansion of testing to include Starting Gate Persons is currently being proposed by the Authority in Rule 2191. The Racetrack Safety Committee will consider adding additional categories of Covered

Persons to this rule in the future.

21. The commenter stated that the rule [2193] should include a requirement that the Racetrack shall have an actual copy of the policy on file with the Commission and send a copy to the Guild at least 10 days prior to the start of the meet. The commenter also stated that the rule should also require that any changes to the policy and/or carrier must be provided to all concerned parties in writing prior to the changes being implemented.

The Racetrack Safety Committee considered these comments from the Jockeys' Guild and has proposed modifications to this rule to require insurance coverage to be in place for all training and racing activities and a copy of the current policy's declaration page to be posted in the Jockeys' quarters prior to the beginning of the racing season.

22. One commenter stated that the rule [2230] should require an onsite central pharmacy at each racetrack to control and monitor medication use and to prevent abuse.

The Racetrack Safety Committee believes this issue deserves further study but did not believe such a rule was ripe for adoption at this time.

23. One commenter suggested the following changes to Rule 2230: first, in (a) after the phrase "... care, custody and control", delete "at locations under the jurisdiction of the State Racing Commission"; second, change (g) to read: "...that person must request permission of the stewards or the State Racing Commissioning in writing" and delete the word "may"; and third, add language to (e) to allow the Regulatory Vet (as well as the commission) to approve the use of these items.

The Racetrack Safety Committee considered all of these comments and is proposing modifications consistent with the first two suggested revisions noted in this comment.

24. One commenter suggested that the Safety Director be removed from the list of persons in Rule 2240(d) who may require diagnostic testing for any Horse placed on the Veterinarian's List.

In recognition of this comment, the Authority is recommending removing the Safety Director from the list of persons authorized to require veterinary diagnostics be performed.

25. One commenter was opposed to the practice of placing a horse treated with shock-wave therapy on the Veterinarians' List for 30 days. The commenter recommended placing horses on the List for only 10 days, stating that a 10-day period is sufficient to safeguard the welfare of the horse.

The Racetrack Safety Committee carefully considered industry input and has proposed an

amendment to the prohibition on Workouts from 30 days to 14 days. This permits the horse to continue in light training during the course of therapy. The Committee opted not to amend the 30-day prohibition on racing.

26. One commenter stated that Rule 2242 should require a post-work blood test for unsound horses and those horses placed on the Veterinarians' List for a positive test.

In recognition of this comment, the Authority has added the requirement for a post-Workout blood test for horses placed on the Veterinarians' List as unsound, having experienced Epistaxis, not having started in more than 365 days, and unraced horses after January 1st of their 4-year-old year. (The provision has been renumbered and may be found at 2242(b)(6)). The language placing horses on the Veterinarians' List for a "positive test" has been struck from the safety rules.

27. One commenter believed that "individual Horse risk factors" in Rule 2142(b) was too subjective in identifying the risk factors and suggested that language be added to identify the risk factors to ensure compliance with the rules.

Individual horse risk factors, while inclusive of horse age and sex, will expand as data are collected and analyzed to identify additional individual horse factors. Consequently, an explicit statement of all individual horse risk factors would preclude useful assessment. However, individual horse risk factors will be considered for revision in future rule modifications as data and analysis dictate.

28. One commenter suggested that sections (a) and (b) [of Rule 2253] be amended to state "... maintain the information for the previous 30 days and make available to the Regulatory Veterinarian within 1 hour of request."

Because of the importance of this information, the proposed rule eliminates the time restriction of 30 days. The Racetrack Safety Committee did not propose a time requirement be adopted for production.

29. A commenter noted that not all horses vanned off are unsound [Rule 2262].

In recognition of this comment, the revised rule specifies categories of Veterinarians' List placement that trigger the voiding of the claim. The provision has been renumbered and

now appears at 2262(e)(2).

30. Several commenters noted that the definition of claiming races varies between states and these commenters believe that a standard definition is needed.

See the Authority's response to question no. 3 herein.

31. In response to comments on "Prohibited Practices" (Rule 2271), the Authority noted that, while Rule 2271 is appropriate as written, the phrase "or a counter-irritant effect" will be the subject of future study by the Racetrack Safety Committee, and if necessary future rule modifications will be considered.

Rule 2271 is the subject of extensive revision. Language has been added to make clear that a "counter irritant effect" is only prohibited if it is produced via injection of a substance, not topically. (The provision has been renumbered and now appears at 2271(a)(7)).

32. One commenter suggested that the term "workout" should be substituted for the use of the undefined term "breeze" in section (a)(3).

The term "breeze" has been deleted where it previously appeared in the safety rules and has been replaced by the defined term "Workout."

33. One commenter stated that section (a)(1) requires disclosure 48 hours prior to use, while (a)(2) requires disclosure within 48 hours of treatment. The commenter suggests requiring the disclosure of shock wave therapy at any time prior to use and notes that veterinarians often do not know that shock wave treatment will be necessary 48 hours in advance of the treatment.

Non-enforcement of the 48-hour pre-treatment notification requirement was the subject of an announcement dated December 21, 2022. The elimination of the provision is codified in these proposed rules.

34. One commenter suggested that Rule 2273 could be interpreted to prohibit outriders and pony riders from using spurs.

A horse being utilized by an outrider or a pony rider is unlikely to be a Covered Horse.

Therefore, the Authority does not believe further modifications are necessary in response to this comment.

35. One commenter asked what license or registration would be suspended under Rule 2274.

This rule is modified to impose restrictions upon registration with the Authority as the

penalty for violations of Rule 2273. The modification deletes the reference to loss of eligibility “to obtain a racing license in all racing jurisdictions.” The change is made because restrictions upon registration with the Authority are more appropriate penalties imposed by the Authority.

36. One commenter stated that “communication device” should be defined in Rule 2275.

The Racetrack Safety Committee proposed new language to the rule that further prohibits any audio device that “...obstructs or impairs the Rider’s ability to hear other horses, Riders, hazards,...”. The Authority feels that these changes assist in defining “communication device”.

37. The commenters submitted a wide range of comments on Rule 2280. PETA and the Animal Welfare Institute stated that crop use should be banned. The CHRB, NJRC, Senator Feinstein and the Humane Society stated that the overhand use of the riding crop should be prohibited. The Jockeys’ Guild submitted over four pages of comments and urged that more permissive riding crop rules should be implemented.

There has been heated debate about use of the riding crop for encouragement. The comments previously posted to the *Federal Register* are consistent with the comments the Authority has received throughout the development of the Racetrack Safety Rule. Some believe the new crops do not hurt the horse at all, while others remain concerned about the public perception of crop use. The Racetrack Safety Committee has carefully considered all of these comments in developing the rule. The rule permits use of the riding crop for the safety of the horse and Jockey, but prohibits excessive use of the crop by limiting the number of times the crop can be used during a race for encouragement. This compromise, as embodied in the rule, will establish a uniform standard across racing jurisdictions that is in the best interest of the horses, horsemen, the owners, the Jockeys, the betting public, racing commissions, and the general public. Jockeys will benefit from a single uniform rule in all jurisdictions to which they can adapt their usage. It is also important to note that the proposed rule is more restrictive than the rules currently in place in numerous jurisdictions.

A modification has been made to Rule 2280, Use of the Riding Crop, making clear that crop strikes to the shoulder of the horse are counted in the total allowable strikes.

Additionally, the penalties for misuse of the crop have been structured to be more punitive as the level of purses increases.

38. One commenter asked the Authority review section (c) of Rule 2281 to ensure that the rule does not refer to a crop specific to one brand or vendor. The description of a “smooth cylinder” crop appears to refer to a specific brand and the commenter opposes allowing one vendor to have a monopoly on crop sales. One commenter stated that the rule refers to a specific style and brand of crop and argues that none of the crops used at Indiana Grand last year would be permitted under the rule. Another commenter requested that the rule allow the use of cushioned, shock absorbing and/or the cylinder popper.

The Racetrack Safety Committee has determined that the crop specifications should be defined to prevent the use of crops that have features likely to injure the horse. The rule is largely based on the ARCI Model Rules and the NTRA Safety and Integrity guidelines with modifications to “soften” the end of the crop that contacts the horse. The Authority is proposing modification to this rule to include a wider range of allowable crops. In addition to “smooth cylinder” crops, “padded flat” crops are allowed. To date, 6 “smooth cylinder” crops have been approved by the Racetrack Safety Committee for use as well as 1 “padded flat” crop.

39. One commenter asked regarding Rule 2282: “if a horse is disqualified from purse earnings under either (b)(2) or (b)(3), how is it possible to also forfeit a percentage of the Jockey’s portion of the purse?” Another commenter asked whether the suspension days are calendar or racing days. One commenter noted that the rule fails to specify penalties for violations other than exceeding the number of strikes.

The Authority is proposing modifications to Rule 2282 to clarify the forfeiture of a percentage of the Jockey’s portion of the purse when the horse is disqualified. The 8000 Rule Series provides for Stewards to address crop violations other than exceeding the number of strikes.

40. One commenter stated that a protocol was needed to share concussion information across racetracks. Another recommended that the Racetrack Safety Committee review New York’s licensing requirements and rider medical fitness for incorporation into the rules. One commenter expressed the opinion that the rule should address exercise riders. One commenter urged the Authority to create a

banned substance list. Another commenter noted that the rule does not contain a protocol for weight practices.

The Authority has received several comments regarding cross-track concussion reporting for Jockeys. The Authority agrees and this is being undertaken by the Authority as part of the partnership with the Authority's electronic platform designated for collection and storage of Jockey eligibility documentation. As for the other issues raised in this comment, the Authority states that this rule is being modified to make more explicit the requirements for the physical examination and baseline concussion test required of Jockeys on an annual basis. The modified rule will serve to specify the concussion assessment tools applicable to the baseline concussion test. New provisions are added by the modified rule that require Jockeys to submit to the Authority documentation concerning fitness to ride, physical examination and the concussion test.

41. The commenter expressed support for the requirement in Rule 2292 that medical information cards be attached to the rider's vest. The commenter urged that a centralized database be developed and utilized.

Rule 2292 will now require all Riders to securely attach to the Rider's safety vest one or more medical information cards describing the Rider's medical history and any conditions pertinent to emergency care, including a listing of any previous injuries, drug allergies and current medications.

#### **IV. Legal Authority**

This rule is proposed by the Authority for approval or disapproval by the Commission under 15 U.S.C. 3053(c)(1).

#### **V. Date of Effectiveness**

If approved by the Commission, this proposed rule will take effect on [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

#### **VI. Request for Comments**

Members of the public are invited to comment on the Authority's proposed rule. The Commission requests that factual data on which the comments are based be

submitted with the comments. The supporting documentation referred to in the Authority's filing are available for public inspection on the docket for this matter at <https://www.regulations.gov>.

The Commission seeks comments that address the decisional criteria provided by the Act. The Act gives the Commission two criteria against which to measure proposed rules and rule modifications: "The Commission shall approve a proposed rule or modification if the Commission finds that the proposed rule or modification is consistent with—(A) this chapter; and (B) applicable rules approved by the Commission."<sup>143</sup> In other words, the Commission will evaluate the proposed rule for its consistency with the specific requirements, factors, standards, or considerations in the text of the Act as well as the Commission's procedural rule.

Although the Commission evaluates the Authority's proposed rule for its consistency with the Act and the Commission's procedural rule, the Commission may consider broader questions—about the health and safety of horses and jockeys, the integrity of horseraces and wagering on horseraces, and the administration of the Authority itself—in another context: "The Commission ... may abrogate, add to, and modify the rules of the Authority promulgated in accordance with this chapter as the Commission finds necessary or appropriate to ensure the fair administration of the Authority, to conform the rules of the Authority to requirements of this chapter and applicable rules approved by the Commission, or otherwise in furtherance of the purposes of this chapter."<sup>144</sup> The Commission may exercise this rulemaking power on its own initiative or in response to a petition from a member from the public. If members of the public wish to provide comments to the Commission about its use of the rulemaking power, they are encouraged to submit a petition requesting that the Commission issue a

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<sup>143</sup> 15 U.S.C. 3053(c)(2).

<sup>144</sup> 15 U.S.C. 3053(e) (as amended by the Consolidated Appropriations Act, 2023, H.R. 2617, 117th Cong., Division O, Title VII (2022)).

rule addressing the subject of interest. The petition must meet all the criteria established in the Rules of Practice (part 1, subpart D);<sup>145</sup> if it does, the petition will be published in the *Federal Register* for public comment. In particular, the petition for a rulemaking must “identify the problem the requested action is intended to address and explain why the requested action is necessary to address the problem.”<sup>146</sup>

## **VII. Comment Submissions**

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “HISA Racetrack Safety Rule Modification” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we strongly encourage you to submit your comments online. To make sure the Commission considers your online comment, you must file it at <https://www.regulations.gov>, by following the instructions on the web-based form.

If you file your comment on paper, write “HISA Racetrack Safety Rule Modification” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex H), Washington, DC 20580. If possible, please submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive

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<sup>145</sup> 16 CFR 1.31; *see* FTC, Procedures for Responding to Petitions for Rulemaking, 86 FR 59851 (Oct. 29, 2021).

<sup>146</sup> 16 CFR 1.31(b)(3).

personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential”—as provided in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at <https://www.regulations.gov>—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and any news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before

[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/siteinformation/privacypolicy>.

### **VIII. Communications by Outside Parties to the Commissioners or Their Advisors**

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner’s advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

### **IX. Self-Regulatory Organization’s Proposed Rule Language**

The following language reflects the Racetrack Safety Rule with the proposed modifications incorporated. A redline version that shows every way in which the previously approved Racetrack Safety Rule would be modified by the proposed rule modification is available as Exhibit B on the docket at <https://www.regulations.gov>.

[insert new clean rule text]

#### **Rule 2000 Series—Racetrack Safety Program**

2010 Definitions

2015 Racehorse Epidemiology Database and Study

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**2010. Definitions**

When used in the Rule 2000 Series:

*Act* shall have the meaning set forth in Rule 1020.

*Adverse Analytical Finding* shall have the meaning set forth in Rule 1020.

*Association Veterinarian* shall have the meaning set forth in Rule 1020.

*Attending Veterinarian* shall have the meaning set forth in Rule 1020.

*Authority* shall have the meaning set forth in Rule 1020.

*Catastrophic Injury* means an Equine Injury that resulted in death or euthanasia of a Covered Horse within 72 hours of injury.

*Claim* shall have the meaning set forth in Rule 1020.

*Claiming Race* shall have the meaning set forth in Rule 1020.

*Commission* shall have the meaning set forth in Rule 1020.

*Concussion* means an injury to the brain that results in temporary loss of normal brain function.

*Covered Horse* shall have the meaning set forth in Rule 1020.

*Covered Horserace* or *Race* shall have the meaning set forth in Rule 1020.

*Covered Person* shall have the meaning set forth in Rule 1020.

*Designated Equine Facility* means an equine facility designated by a Racetrack in accordance with the procedures established in Rule 2144, whose biosecurity protocols are consistent with those of the Racetrack, and from which the Racetrack will accept horses onto its grounds with a valid health certificate issued within the last 30 days or in a shorter period of time if high risk situations dictate.

*Designated Owner* shall have the meaning set forth in Rule 1020.

*Epistaxis* means that blood from one or both nostrils of a Covered Horse has been observed after exercise, attributable to an episode of exercise induced pulmonary hemorrhage.

*Equine Injury* means an injury to a Covered Horse that occurred during racing or training for which intervention by the Regulatory Veterinarian or reporting by the Safety Director pursuant to Rule 2131 is required, and for which an injury report must be submitted pursuant to the Rule 2000 Series.

*Equine Mortality* means a fatality of a Covered Horse that is not attributable to a Catastrophic Injury.

*Exercise Rider* means a rider of a Covered Horse during a training activity that is not a Covered Horserace.

*Farrier* means a farrier (or horseshoer, plater or blacksmith) who provides all aspects of hoof care or orthotic services to Covered Horses, including trimming and/or the application of various orthotics to the hoof.

*Groom* means a Covered Person who is engaged by a Responsible Person to assist in the daily physical care of Covered Horses.

*Horseshoe Inspector* means a person (for example, a paddock farrier) employed, contracted, or appointed by a State Racing Commission, Racetrack, or the Authority, who has been trained in, and is responsible for, inspecting horseshoes or other orthotics on

hooves of Covered Horses.

*Human Injury* means an injury to a Covered Person that requires medical attention and, as a result, may restrict a Covered Person's current or future participation or employment in racing, and for which an injury report must be submitted.

*Jockey* means a rider licensed in any state and registered with the Authority to ride a Covered Horse in a Covered Horserace.

*Layoff Report* means a report completed in a manner prescribed by the Authority and submitted by the Trainer or Trainer's designee for a Covered Horse that has not raced in a Covered Horserace for 150 consecutive days or more. The Layoff Report shall include, at a minimum, information regarding all examinations, medical treatments, surgical treatments, and exercise history of the Covered Horse during the layoff period.

*Lead Veterinarian* means any Veterinarian appointed pursuant to Rule 2134(c).

*Medical Director* means an individual designated as Medical Director in accordance with the provisions of Rule 2132.

*Outrider* means a rider employed or contracted by the Racetrack who oversees and assists with the safety of all Riders, Trainers, and horses on the Racetrack.

*Owner* shall have the meaning set forth in Rule 1020.

*Person* shall have the meaning set forth in Rule 1020.

*Pony Horse* means a horse, including the Outrider's horse, that accompanies a Covered Horse(s) during training or racing activities.

*Prohibited List* shall have the meaning set forth in Rule 1020.

*Prohibited Methods* shall have the meaning set forth in Rule 1020.

*Prohibited Substance* shall have the meaning set forth in Rule 1020.

*Protocol* shall have the meaning set forth in Rule 1020.

*Race Day* shall have the meaning set forth in Rule 1020.

*Race Meet* means the entire period granted by the State Racing Commission to a

Racetrack for the conduct of Covered Horseraces on the Racetrack's premises.

*Racetrack* means an organization licensed by a State Racing Commission to conduct Covered Horseraces.

*Racetrack Risk Management Committee* means the committee established pursuant to Rule 2121.

*Racetrack Safety Accreditation or Accreditation* means the process for achieving, and the issuance of, safety Accreditation to a Racetrack in accordance with Rules 2100 through 2193.

*Racetrack Safety Committee* means the committee (or its delegate) established pursuant to 15 U.S.C. 3052(c)(2).

*Regulatory Veterinarian* shall have the meaning set forth in Rule 1020.

*Responsible Person* shall have the meaning set forth in Rule 1020.

*Rider* means any person who is mounted on a Covered Horse or Pony Horse on the Racetrack, including a Jockey.

*ROAP* means the Racing Officials Accreditation Program.

*Safety Director* means an individual designated as, and having the responsibilities of, a Safety Director as set forth in Rule 2131.

*Safety Officer* means an individual designated as, and having the responsibilities of, a Safety Officer as set forth in Rule 2136.

*Safety Program Effective Date* means July 1, 2022.

*Shock Wave Therapy* means extracorporeal shock wave therapy or radial pulse wave therapy.

*Starting Gate Person* means any individual licensed as a starter, assistant starter, or any individual who handles Covered Horses in the starting gate.

*State Racing Commission* shall have the meaning set forth in Rule 1020.

*Steward or Stewards* shall have the meaning set forth in Rule 2133.

*Timed and Reported Workout* shall have the meaning set forth in Rule 1020.

*Traction Device* means any device that extends beyond the ground surface of the horseshoe and includes but is not limited to inserts, wear plates, rims, toe grabs, bends, jar calks, stickers, ice nails, frost nails, and mud nails.

*Trainer* shall have the meaning set forth in Rule 1020.

*Training Facility* shall have the meaning set forth in Rule 1020.

*Veterinarian* shall have the meaning set forth in Rule 1020. Notwithstanding any provision set forth in the Rule 9000 Series (Registration Rules), a Veterinarian who provides veterinarian services to Covered Horses shall register with the Authority.

*Veterinarians' List* means a list maintained, or approved for use, by the Authority of all Covered Horses that are determined to be ineligible to compete in a Covered Horserace in any jurisdiction until released by a Regulatory Veterinarian.

*Vets' List Workout* shall have the meaning set forth in Rule 1020.

*Workout* shall have the meaning set forth in Rule 1020.

#### 2015. Racehorse Epidemiology Database and Study

(a) The Authority, in consultation with the Commission, shall develop and maintain a nationwide database of Covered Horse safety, performance, health, and injury information.

(b) The database shall consist of information from the following sources:

(1) Post-inspection reports developed by the Racetrack Safety Committee pursuant to Rule 2112, and all information and documentation submitted by Racetracks and obtained from other sources that relate to the post-inspection reports requested by the Authority pursuant to Rule 2112.

(2) Annual Racetrack Safety Accreditation Audits and any supporting documentation submitted by Racetracks to the Authority pursuant to Rule 2115(b).

- (3) End of meet reports submitted by Racetracks to the Authority pursuant to Rule 2115(g).
- (4) End of Race Meet Reports submitted by the Racetrack Risk Management Committees to the Authority pursuant to Rule 2121(c)(8).
- (5) Risk management and injury prevention programs and protocols developed by the Racetrack Risk Management Committees and submitted to the Authority pursuant to Rule 2131.
- (6) The names of all Covered Horses that suffer an injury requiring equine ambulance assistance, are euthanized, or which otherwise die, as submitted to the Racetrack's Risk Management Committee and the Authority by the Safety Director pursuant to Rule 2131(c)(8).
- (7) The names of all Covered Horses euthanized, or which otherwise die at a race meeting, as submitted to the Authority by Regulatory Veterinarians pursuant to Rule 2135(a)(9).
- (8) Reports summarizing the results of pre-Race inspection and submitted to the Authority by Regulatory Veterinarians pursuant to Rule 2142(c)(3).
- (9) Post-race inspection findings documented to the Authority by Regulatory Veterinarians pursuant to Rule 2142(d)(1).
- (10) Information documented to the Authority by Regulatory Veterinarians pursuant to Rule 2142(d)(2) concerning any observed skin lacerations, swellings, or welts resulting from crop use.
- (11) Information reported to the Authority by Regulatory Veterinarians concerning Covered Horses observed during training pursuant to Rule 2142(e).
- (12) Information concerning Racehorse Monitoring submitted by Racetracks to the Authority pursuant to Rule 2143.
- (13) Racetrack design records, racing and training surface maintenance records,

surface material tests, and daily tests data submitted by Racetracks to the Authority pursuant to Rule 2151(b).

(14) Racetrack surface monitoring logs and documentation required to be submitted by Racetracks to the Authority pursuant to Rule 2154.

(15) Information concerning infectious disease management submitted to the Authority pursuant to Rule 2165.

(16) Information concerning Rider injuries collected by Racetracks and submitted to the Authority pursuant to Rule 2167.

(17) Necropsies and any related information findings that are required to be submitted to the Authority pursuant to Rule 2170.

(18) Any information concerning Jockey concussion management required to be submitted to the Authority pursuant to Rule 2192.

(19) Covered Horse treatment records required to be submitted to the Authority pursuant to Rule 2251.

(20) Records submitted to the Authority by Responsible Persons pursuant to Rule 2252.

(21) Records, information, and data pertaining to Jockey Crop violations.

(22) Records, information, and data pertaining to the basis for the voiding of claims at Covered Racetracks.

(23) Any other records, information or data generated or obtained by the Authority that is relevant to Covered Horse safety, performance, health, and injury.

(c) Upon the written request of the Authority, a Racetrack shall provide historical equine injury and fatality data for the previous 10 years from the date of the request. Such information may be included in the national database at the discretion of the Authority.

(d) To the extent that records, information, or data are not specifically required to be

submitted under the rules of the Authority, the Authority may require the production from Covered Persons of records, information and data that are relevant to Covered Horse safety, performance, health and injury.

(e) The Authority shall review the data received under this Rule to conduct an epidemiological study pertaining to racehorse safety, performance, health, and injury.

Epidemiological studies may be conducted on a periodic basis as deemed appropriate by the Authority.

## **2100. Racetrack Accreditation**

### 2101. General

(a) The Racetrack Safety Committee and the Authority shall oversee Racetrack Safety Accreditation in accordance with the provisions of Rules 2100 through 2193.

(b) All Racetracks shall meet the requirements of Racetrack Safety Accreditation with the Racetrack Safety Committee in accordance with the provisions of Rules 2100 through 2193.

### 2110. Accreditation Process

#### 2111. Interim and Provisional Accreditation

(a) Interim Accreditation.

(1) A Racetrack that is accredited by the National Thoroughbred Racing Association as of the Safety Program Effective Date shall be granted interim Racetrack Safety Accreditation, which shall be effective until the later of:

(i) such time as the Racetrack Safety Committee completes an Accreditation assessment under Rule 2112 with respect to such Racetrack;

or

(ii) the time period established by the Authority under Rule 2114(a).

(b) Provisional Accreditation.

(1) A Racetrack that is not accredited by the National Thoroughbred Racing

Association as of the Safety Program Effective Date shall be granted provisional Racetrack Safety Accreditation, which shall be effective until the later of:

(i) such time as the Racetrack Safety Committee completes an Accreditation assessment under Rule 2112 with respect to such Racetrack;

or

(ii) the time period established by the Authority under Rule 2114(b).

(2) The Authority may at any time upon reasonable notice require a Racetrack with provisional Racetrack Safety Accreditation to report on its progress toward achieving full Accreditation. The Authority may request any additional information from the Racetrack that the Authority deems necessary or relevant to an Accreditation determination and may conduct unannounced on-site inspections at any time.

#### 2112. Accreditation Assessment

(a) Upon the initiation of an Accreditation assessment by the Racetrack Safety Committee, the subject Racetrack shall submit or provide access to any relevant information and documentation requested by the Racetrack Safety Committee. The Racetrack Safety Committee may request additional information and documentation as the assessment proceeds. The Racetrack Safety Committee may at any time propound written questions or inquiries to the Racetrack, to which the Racetrack shall respond in writing by the deadline established by the Racetrack Safety Committee.

(b) After review of all information submitted by the Racetrack under Rule 2112(a), the Racetrack Safety Committee shall conduct an on-site inspection of the Racetrack. The Racetrack Safety Committee shall then prepare a post-inspection report identifying any aspects of the Racetrack's operations that are not in compliance with the requirements of Rules 2100 through 2193.

(c) Within 30 calendar days of the Racetrack's receipt of the post-inspection report under

Rule 2112(b), the Racetrack shall respond in writing to the Racetrack Safety Committee setting forth all actions to be taken by the Racetrack to remedy the areas of non-compliance identified in the post-inspection report, and the timeframes necessary for implementation of such remedial actions.

(d) The Racetrack Safety Committee shall assess the Racetrack's response and make a written recommendation to the Authority whether to issue or deny Accreditation or provisional Accreditation of the Racetrack. As a condition of Accreditation, the Racetrack Safety Committee may require a Racetrack to take any remedial or other action that is consistent with the Authority's safety rules and Accreditation standards established in the Rule 2100 Series and Rule 2200 Series.

#### 2113. Issuance of Accreditation

(a) The Authority shall determine whether a Racetrack is entitled to Accreditation by evaluating compliance with the requirements set forth in Rules 2100 through 2193.

(b) In determining whether to grant, renew, or deny Accreditation to a Racetrack, the Authority shall review all information submitted by the Racetrack and the Racetrack Safety Committee's recommendation.

#### 2114. Effective Periods of Accreditation

(a) Accreditation.

(1) Subject to Rule 2114(a)(2), Accreditation shall be effective for a period of 3 years.

(2) The Authority may modify the Accreditation period to a period of 1 to 7 years if the Authority determines that such modified period will be consistent with the requirements of Accreditation outlined in Rules 2100 through 2193.

(b) Provisional Accreditation.

(1) Provisional Accreditation shall be effective for an initial period of 1 year.

(2) Upon the expiration of the initial 1 year period referenced in paragraph (1)

above, provisional Accreditation may be extended for additional 1 year periods if the Authority determines that the subject Racetrack is continuing to undertake good faith efforts to comply with the requirements of Rules 2100 through 2193 and achieve Accreditation.

#### 2115. Racetrack Reporting

- (a) All Racetracks under these Rules shall participate in ongoing reporting and review to the Authority.
- (b) All Racetracks shall, by December 31 of each calendar year, submit to the Racetrack Safety Committee a completed Racetrack Safety Accreditation Audit along with any supporting documentation required by the Authority demonstrating efforts to comply with all Accreditation requirements. The Audit shall be certified by an appropriate Racetrack official who can attest to the truth and accuracy of the information in the Audit.
- (c) All Racetracks shall maintain on file with the Authority an accurate list of names and contact information for key personnel within their organization as designated by the Authority.
- (d) All Racetracks shall authorize any third-party system provider who collects or returns data related to a Covered Person, Covered Horse, or Covered Horserace, to provide to the Authority, upon request, any data submitted by the Racetrack that relates to a Covered Person, Covered Horse, or Covered Horserace.
- (e) All Racetracks shall authorize any video replay or video service provider of Covered Horseraces to make available to the Authority, upon request, unedited, high-resolution video replays of all Covered Horseraces taking place at the Racetrack.
- (f) The Authority may request from the Racetrack any information and records that it deems necessary or relevant to an Accreditation determination or a suspected violation of the Accreditation rules and may conduct unannounced on-site inspections at any time.

(g) All Racetracks shall submit a report within 30 calendar days of the end of each Race Meet in such form as the Authority may prescribe. The report shall be certified by an appropriate Racetrack official who can attest to the truth and accuracy of the information in the report.

#### 2116. Suspension and Revocation of Accreditation

(a) An accredited Racetrack that is in material noncompliance with the Accreditation requirements, after having received notice of the noncompliance and been given a reasonable opportunity to remedy the noncompliance, may have its Accreditation suspended by the Authority.

(b) In determining whether a Racetrack is in material noncompliance with the Accreditation requirements, the Authority shall consider all factors that it deems appropriate, including but not limited to the factors established in Rule 8360(e)(1)-(5).

(c) A Racetrack that has been granted provisional or interim Accreditation and that is in material noncompliance with the Accreditation requirements, after having received notice of the noncompliance and been given a reasonable opportunity to remedy the noncompliance, may have its provisional or interim Accreditation suspended by the Authority.

(d) Notwithstanding Rule 8360(b), a Racetrack under suspension shall not conduct any Covered Horserace during the period of the suspension.

(e) A suspended Racetrack that fails to remedy the noncompliance in a reasonable time may have its Accreditation or provisional Accreditation revoked by the Authority.

#### 2117. Provisional Suspension of Racetrack Accreditation

##### (a) Provisional Suspension of Racetrack Accreditation

(1) If the Authority has reasonable grounds to believe that the conditions or operations of a Racetrack present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the

Racetrack of the Authority's racetrack safety or Accreditation rules, the Authority may issue to such Racetrack a written notice to show cause concerning a potential provisional suspension of the Racetrack's Accreditation, which notice shall include:

(i) an itemization of the specific Authority's safety and Accreditation rules which the Racetrack is believed to have violated, and a summary of the conditions, practices, facts, or circumstances which give rise to each apparent violation;

(ii) the corrective actions suggested to achieve compliance;

(iii) a request for a written response to the findings, including commitments to suggested corrective action or the presentation of mitigating or opposing facts and evidence; and

(iv) a statement that the Racetrack may, within 3 business days of receipt of the show-cause notice, request a provisional hearing, which, absent exceptional circumstances necessitating a reasonable delay of the hearing, shall be conducted within 3 business days of receipt by the Authority of the Racetrack's request for a provisional hearing. If the Racetrack does not request a provisional hearing within 3 business days of the Racetrack's receipt of the show-cause notice, the Authority shall conduct a provisional hearing in accordance with Rule 2117(b).

(2) Nothing in the Authority's Rules shall preempt or otherwise impair the authority of a State Racing Commission to suspend racing at a Racetrack in accordance with its provisions of licensure.

(b) Provisional Hearing

(1) A Racetrack that has received a show cause notice pursuant to Rule 2117(a)(1) is entitled to a provisional hearing to be conducted by the Authority.

The provisional hearing shall be conducted within 3 business days of receipt by the Authority of the Racetrack's request for a provisional hearing. If the Racetrack does not request a provisional hearing, the Authority shall conduct the provisional hearing within 7 business days of the date the show-cause notice was issued to the track pursuant to Rule 2117(a)(1). The provisional hearing is not a full hearing on the merits, and the sole issue to be determined at the provisional hearing shall be whether the Racetrack's provisional suspension of Accreditation shall go into immediate effect following the provisional hearing, be stayed pending a final hearing under section (c) of this Rule 2117, or be withdrawn.

(2) The provisional hearing shall be conducted by a 3-person panel consisting of 1 industry member of the Board, 1 independent member of the Board, and 1 member of the Arbitral Body selected by the Chair of the Board. The hearing may be conducted in person, or by means of an audio-visual teleconferencing system or a telephone audio system. The panel may submit any findings and make any recommendation to the Board that the panel deems appropriate. The panel shall, as appropriate, submit to the Board a record of the proceedings conducted under this subsection (b)(2).

(3) At the provisional hearing, the burden is on the Authority to demonstrate good cause why the provisional suspension of the Racetrack's Accreditation should go into immediate effect, or be stayed pending a final adjudication. The panel shall consider all factors that it deems appropriate, including but not limited to the factors established in Rule 8360(e)(1)-(5). Within 7 business days of the conclusion of the hearing, the panel shall issue a written decision determining whether the provisional suspension of the Racetrack's Accreditation shall go into immediate effect, be stayed pending a final adjudication, or be withdrawn. As a condition of issuing a stay of the provisional suspension, the panel may require

the Racetrack to comply with additional safety standards or other requirements necessary to address the specific violations by the Racetrack of the Authority's safety or Accreditation rules.

(c) Final Hearing by the Board

(1) A final hearing on the matters giving rise to the provisional suspension shall be adjudicated by at least a quorum of the Board in accordance with the procedures set forth in Rule 8340(d) through (j). The 2 Board members that participated in the provisional hearing shall not participate in the final hearing. If the Racetrack has requested a final hearing, the final hearing shall be conducted by the Board within 14 calendar days of the request by the Racetrack for a final hearing, absent exceptional circumstances which necessitate a reasonable delay of the hearing. If the Racetrack does not request a final hearing within 10 calendar days of the date of the written decision referenced in subsection (b)(3), the Board shall schedule the final hearing. The Board in its discretion may adopt any portion of the record submitted to the Board by a panel under subsection (b)(2) of this Rule 2117.

(2) Within 7 business days of the conclusion of the final hearing, the Board may take one or more of the following actions:

(i) order that the Racetrack's Accreditation be reinstated, suspended, or revoked, upon a vote in favor of reinstatement, suspension, or revocation by two-thirds of a quorum of the members of the Board;

(ii) reinstate Accreditation subject to any requirements the Board deems necessary to address the specific violations by the Racetrack of the Authority's racetrack safety or Accreditation rules. The Board may also impose a fine upon reinstatement in an amount not to exceed \$50,000.00. The Board may require the Racetrack to report at reasonably prescribed

intervals on the status of Racetrack safety operations and remedial efforts to address specific violations by the Racetrack of the Authority's Racetrack safety or Accreditation rules.

(3) The outcome of the final hearing shall be the final decision of the Authority as that term is used in Rule 8350 and Rule 8370, and shall constitute a final civil sanction subject to appeal and review in accordance with the provisions of 15 U.S.C. 3058.

#### 2120. Accreditation Requirements

#### 2121. Racetrack Risk Management Committee

(a) General. The Racetracks in each State shall form a Racetrack Risk Management Committee to review the circumstances around fatalities, injuries, and Racetrack safety issues with the goal of identifying possible contributing risk factors that can be mitigated.

(b) Composition.

(1) Subject to Rule 2121(b)(4), the Racetrack Risk Management Committee shall include, at a minimum, the following:

- (i) Regulatory Veterinarian;
- (ii) Association Veterinarian;
- (iii) Medical Director;
- (iv) Safety Officer or Steward;
- (v) Jockeys' representative;
- (vi) Trainers' representative;
- (vii) Owners' representative;
- (viii) Racing secretary;
- (ix) Racetrack superintendent; and
- (x) Horseshoe Inspector.

(2) In any jurisdiction where the applicable State Racing Commission enters into

an agreement with the Authority to establish a Regulatory Veterinarian(s), the Regulatory Veterinarian(s) identified in the agreement shall chair the Racetrack Risk Management Committee. In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian(s), the Lead Veterinarian(s) established pursuant to Rule 2134(c) shall chair the Racetrack Risk Management Committee. The Racetrack Safety Committee may approve the Association Veterinarian to serve as the chair of the Racetrack Risk Management Committee in place of the Regulatory Veterinarian or Lead Veterinarian if the Racetrack Safety Committee determines that the Association Veterinarian is capable of performing the duties of the chair of the Racetrack Risk Management Committee.

(3) If the Safety Director is not a committee member, the Safety Director shall be an ex officio member of the Racetrack Risk Management Committee.

(4) Subject to the written approval of the Racetrack Safety Committee, a Racetrack may alter the composition of the Racetrack Risk Management Committee.

(5) No individual may concurrently occupy 2 or more of the positions established in Rule 2121(b)(1)(i)-(x) on the Racetrack Risk Management Committee absent prior written approval of the Racetrack Safety Committee.

(c) Responsibilities. The Racetrack Risk Management Committee shall:

(1) Review all findings relative to Catastrophic Injuries and Equine Mortalities. For each Catastrophic Injury and Equine Mortality, the Racetrack Risk Management Committee shall:

(i) interview Trainers, Jockeys, Exercise Riders, and Attending Veterinarians, and, when appropriate, Racetrack personnel and a qualified human health provider;

(ii) examine past performances, Workouts, pre-race inspection findings, necropsy examination findings, and Trainer and Veterinary treatment records;

(iii) review Race or training video footage, if available;

(iv) review Racetrack surface conditions and weather information;

(v) convene a meeting with the connections of the Covered Horse and other interested persons who may have information relevant to the Catastrophic Injury or Equine Mortality, including, at a minimum, the Regulatory Veterinarian, Trainer, Jockey, Rider, and Attending Veterinarian, and others if applicable to:

(A) convey the findings of the review;

(B) acquire additional information useful for developing strategies for injury prevention; and

(C) provide continuing education or continuing education recommendations related to the cause of equine injury, if available, to persons related to the applicable Covered Horse;

(vi) evaluate factors that may have contributed to injuries;

(vii) evaluate the effectiveness of protocols and procedures for managing the equine injury scenario; and

(viii) develop strategies to mitigate identified factors that may have contributed to the injury.

(2) Review all findings relative to Human Injuries. For each Human Injury, the Racetrack Risk Management Committee shall:

(i) interview witnesses and other persons who may have information relevant to the Human Injury;

(ii) evaluate factors that may have contributed to the Human Injury;

(iii) develop strategies to mitigate risks or safety hazards that may have contributed to the Human Injury; and

(iv) evaluate the effectiveness of protocols and procedures for managing Human Injury occurrences.

(3) Consider Racetrack safety issues brought to the Racetrack Risk Management Committee's attention;

(4) Summary review of all injuries and considerations to review existing practices;

(5) Develop strategies to reduce or mitigate injury occurrences;

(6) Enhance the identification of Covered Horses or conditions for which intervention is warranted;

(7) Enhance Racetrack safety for equine and human participants; and

(8) Prepare and submit a report in such form as the Authority may prescribe that summarizes the findings of the Racetrack Risk Management Committee under this paragraph (c) to the Authority within 60 calendar days of the end of Race Meets that are fewer than 60 calendar days in length or at least quarterly for Race Meets of 60 calendar days or more, unless the Racetrack Safety Committee requires earlier submission. The report shall be certified as true and accurate by the chair of the Racetrack Risk Management Committee. The minutes from the meeting(s) of the Racetrack Risk Management Committee shall be attached as an exhibit to the report.

#### 2130. Required Safety Personnel

##### 2131. Safety Director

(a) The Safety Director shall oversee equine safety, Racetrack safety, and risk management and injury prevention at each Racetrack in accordance with the provisions of these rules. The Safety Director may at the same time serve in the applicable

jurisdiction as Safety Officer. Subject to the approval of the Racetrack Safety Committee, the Safety Director may be shared within and among jurisdictions.

(b) If the applicable State Racing Commission does not enter into an agreement with the Authority, then the Racetracks in such jurisdiction shall implement the requirements set forth in this Rule, subject to the Racetrack Safety Committee's approval of the individual named as Safety Director.

(c) The Safety Director shall:

- (1) Create a culture of safety for Covered Horses, Riders, and Racetrack personnel;
- (2) Oversee all aspects of equine safety, Racetrack safety, and safety of personnel working with Covered Horses by ensuring that all activities and practices involving the training and racing of Covered Horses at the track meet safety standards required by the Authority;
- (3) Implement a risk management and injury prevention program under the oversight of the Racetrack Risk Management Committee;
- (4) Establish a formal protocol by which health, safety, and welfare issues are reported, investigated, and resolved by the Racetrack. The protocol shall address coordination between Racetrack management, Veterinarians, safety stewards, and Stewards, so that all persons involved have a clear understanding of their roles and further action may be taken where appropriate;
- (5) Provide guidance to all Covered Persons on safety issues;
- (6) Maintain and annually review standard operating procedures and protocols related to the safety of Covered Horses, Riders, and Racetrack personnel;
- (7) Coordinate and oversee emergency drills including equine injury, starting gate malfunction, and hazardous weather;
- (8) Report all equine injuries that required equine ambulance assistance and

fatalities to the Racetrack's Risk Management Committee and the Authority within 72 hours of an injury, and within 24 hours of a fatality; and

(9) Interact with the Authority concerning Racetrack Safety Accreditation compliance.

2132. Medical Director

(a) The Medical Director shall oversee the care and organization of the medical needs of Jockeys. The Medical Director shall be either a licensed physician, a board-certified athletic trainer, or an individual qualified to perform the duties and responsibilities set forth in this Rule with the assistance of the Authority's National Medical Director.

Subject to the approval of the Racetrack Safety Committee, the Medical Director may be shared within and among jurisdictions.

(b) In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Medical Director consistent with this Rule, the Authority shall appoint and employ a Medical Director to serve as Medical Director in that jurisdiction. The Racetracks in the applicable jurisdiction shall reimburse the Authority for all costs associated with the employment of the Medical Director. Such reimbursement shall be shared by the Racetracks in such jurisdiction.

(c) The Medical Director (or their designees) shall:

- (1) identify professional medical providers and referral networks that are licensed and certified to oversee Racetrack emergency services, which may include hospital affiliations, nursing staff, EMT service and paramedics, internists, surgeons, family practitioners, dentists, athletic trainers, or psychiatrists;
- (2) make medical provider contact information readily available for ease of communication and immediate coordination of care for any medical event;
- (3) require notification of Human Injuries during racing or training to the Authority's National Medical Director within 1 hour of transport of the

individual(s) from the scene of the injury;

(4) require reporting of Human Injuries to the Racetrack's Racetrack Risk Management Committee and the Authority within 24 hours of injury;

(5) coordinate and oversee a plan for on-site medical care, including provisions for emergency medical facilities and staffing;

(6) implement an emergency drill for a Jockey injury;

(7) coordinate and oversee a comprehensive plan for transportation of an injured Jockey to the nearest Trauma Level One or Two facility;

(8) coordinate and oversee a plan for transportation of injured Covered Persons to medical care providers;

(9) ensure compliance with mandatory annual Jockey physical examination requirements to indicate readiness to ride for Jockeys;

(10) exercise oversight of medical standards, including the minimum criteria for riding fitness;

(11) develop and implement a process for certifying a Jockey's fitness to resume riding after any incident at the Racetrack that may impair the Jockey's reflexes, decision-making or ability to maintain control of a Covered Horse in a race;

(12) implement the program for Concussion evaluation, Jockey exclusion and clearance, and return to ride protocol;

(13) develop in writing, subject to annual review and revision as necessary, the Racetrack's Emergency Action Plan, which shall provide for rapid response to the medical needs of Covered Persons at the Racetrack;

(14) work with local, State, and Federal regulators to standardize the approach and response to pandemic-related issues among Covered Persons at the Racetrack;  
and

(15) coordinate with the Authority's National Medical Director.

### 2133. Stewards

(a) In States where the applicable State Racing Commission elects to enter into an agreement with the Authority, the Stewards, in addition to their duties under State law, shall enforce the safety regulations set forth in Rules 2200 through 2293.

(b) Unless the Authority determines that the applicable individual is otherwise qualified, to qualify for appointment as a Steward, the appointee shall meet the experience, education, and examination requirements necessary to be accredited by ROAP.

(c) The requirements of Rule 2133 for any Steward employed by or contracted with a State Racing Commission are subject to the applicable State Racing Commission electing to enter into an agreement with the Authority. If the applicable State Racing Commission does not enter into such an agreement, the Racetracks in the jurisdiction shall implement the requirements set forth in Rule 2133, subject to the Racetrack Safety Committee's approval of the individual(s) named as Steward(s) by the Racetracks. The Steward(s) named by the Racetracks shall enforce only the safety regulations set forth in Rules 2200 through 2293. The Racetracks in the applicable jurisdiction shall reimburse the Authority for any costs incurred by the Authority associated with the Steward(s).

### 2134. Regulatory Veterinarian

(a) A Racetrack shall ensure that no fewer than 2 Regulatory Veterinarians (as defined in Rule 1020) (excluding test barn veterinarians) are present at the Racetrack during all live racing. Upon a request and a showing of undue hardship by the Racetrack, the Racetrack Safety Committee may permit a Racetrack to have 1 Regulatory Veterinarian present at the Racetrack during all live racing.

(b) The Regulatory Veterinarian shall:

- (1) subject to the provisions of Rule 2134(c), be employed, contracted, or appointed by a State Racing Commission or the Authority, who, in addition to other duties, is responsible for monitoring the health and welfare of Covered

Horses during Covered Horseraces;

(2) be licensed to practice in the state in which the Regulatory Veterinarian is performing the duties established under this Rule, if such licensing is required in the applicable jurisdiction;

(3) refuse employment or payment, directly or indirectly, while employed as a Regulatory Veterinarian, from any Owner or Trainer of a Covered Horse racing or intending to race in the jurisdiction;

(4) refrain from directly treating or prescribing medications for any Covered Horse within the applicable jurisdiction except in cases of emergency, accident, or injury; and

(5) be knowledgeable about identifying and stabilizing common musculoskeletal injuries.

(c) In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian(s) consistent with Rule 2134, the Racetrack shall appoint a Veterinarian(s) to serve as the Lead Veterinarian(s) in such jurisdiction or Racetrack, as the case may be. In any jurisdiction where the applicable State Racing Commission does elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian(s) consistent with Rule 2134, the Racetrack may appoint a Veterinarian(s) to serve as the Lead Veterinarian(s) to supplement the duties of the Regulatory Veterinarian(s) and to comply with the requirements in Rule 2134(a). The appointment of the Lead Veterinarian(s) is subject to the Racetrack Safety Committee's approval. The Lead Veterinarian(s) shall perform all of the duties, obligations and responsibilities of the Regulatory Veterinarian(s) as specified in these Rules. The Racetracks in the applicable jurisdiction shall reimburse the Authority for any costs incurred by the Authority associated with the Lead Veterinarian(s).

## 2135. Responsibilities and Duties of Regulatory Veterinarian

(a) Regulatory Veterinarian(s) shall have the following responsibilities and duties:

- (1) conduct pre-race inspections on all potential starters on Race Day;
- (2) inspect any Covered Horse when there is a question as to the physical condition of such Covered Horse independent of the Covered Horse's entry status;
- (3) be present in the paddock during saddling, at the Racetrack during the post parade, and at the starting gate until the Covered Horses are dispatched from the starting gate for the Race;
- (4) perform post-Race observations;
- (5) notify the Stewards of the scratch of any Covered Horse that is, in the opinion of the Regulatory Veterinarian, injured, ill, otherwise unable to compete due to a medical or health-related condition, or that poses a hazard to other horses or racing participants. The Stewards shall then scratch the Covered Horse from the Race;
- (6) inspect any Covered Horse which appears to be in physical distress during the Race or upon completion of the Race;
- (7) notwithstanding Rule 2220(a), provide emergency medical care to Covered Horses injured while racing or training and effect case transfer to the Attending Veterinarian;
- (8) be authorized to euthanize, consistent with the current version of the American Veterinary Medical Association Guidelines for the Euthanasia of Animals, any Covered Horse deemed to be so seriously injured that it is in the best interests of the Covered Horse to so act;
- (9) report to the Safety Director and the Authority within 24 hours the names of all Covered Horses who are euthanized or which otherwise die at the meeting and

the reasons therefor;

(10) collaborate with the Safety Director, Chief Veterinarian of the State Department of Agriculture (or comparable State government official), Equine Disease Communication Center (EDCC), and other regulatory agencies to take measures to control communicable or reportable equine diseases; and

(11) remove a Covered Horse from the Veterinarians' List in accordance with Rules 2241 and 2242.

(b) Regulatory Veterinarian(s) may:

(1) access any and all Covered Horses housed on Racetrack grounds regardless of entry status;

(2) perform inspections of any Covered Horse at any time;

(3) observe Covered Horses during training activities and Workouts; and

(4) place a Covered Horse on the Veterinarians' List.

(c) If the Regulatory Veterinarian and the Regulatory Veterinarian's staff are unable to fulfill any of the duties described in Rule 2135(a) and (b), such duties may be performed by an Association Veterinarian. In such case, the Association Veterinarian shall be responsible for adhering to and upholding the rules and regulations of the Authority and the State Racing Commission. Notwithstanding anything contained in the Rules of the Authority to the contrary, if after consultation with the Regulatory Veterinarian, the Authority determines that the Regulatory Veterinarian requires additional assistance to perform the duties of the Regulatory Veterinarian as established in the Authority's rules, the Authority may retain additional Veterinarians to assist the Regulatory Veterinarian. The applicable Racetracks in the applicable jurisdiction shall reimburse the Authority for all costs associated with the employment of any additional Veterinarians retained under this paragraph.

(d) In any jurisdiction where the applicable State Racing Commission enters into an

agreement with the Authority to establish a Regulatory Veterinarian(s), the Regulatory Veterinarian(s) identified in the agreement shall have authority over all Veterinarians within the grounds of the Racetrack. In any jurisdiction where the applicable State Racing Commission does not elect to enter into an agreement with the Authority to establish a Regulatory Veterinarian(s), the Lead Veterinarian(s) established pursuant to Rule 2134(c) shall have authority over all Veterinarians within the grounds of the Racetrack. The Regulatory Veterinarian(s) identified in the agreement shall review and consult with the Stewards and State Racing Commission regarding the State Racing Commission license applications of Attending Veterinarians, veterinary technicians or assistants, vendors of medical supplies and equipment, and non-Veterinarian equine health care providers. The authority and responsibilities of the Regulatory Veterinarian to review and consult with the Stewards and State Racing Commission regarding license applications under this paragraph (d) shall not be exercised by an Association Veterinarian or Lead Veterinarian.

#### 2136. Racetrack Safety Officer

(a) Each Racetrack shall have a Safety Officer to ensure that all activities and practices involving the training and racing of Covered Horses at the Racetrack meet required safety standards and regulatory guidelines. The Safety Officer may also be a Steward.

(b) The Safety Officer or the Safety Officer's designee shall:

- (1) monitor daily stable area activities and practices in the barn area and on the Racetrack for compliance with the applicable State Racing Commission safety regulations and the Rules of the Authority;
- (2) conduct pre-Race Meet Racetrack safety inspections;
- (3) monitor Outrider compliance with Racetrack rules during training;
- (4) monitor starting gate procedures;
- (5) monitor ambulance and medical personnel protocols for Covered Horses and Jockeys in cooperation with the Medical Director;

- (6) assist Regulatory Veterinarians with follow-up on Covered Horses barred from training or vanned off during training and racing;
- (7) review ship-in and ship-out lists and undertake appropriate investigations;
- (8) conduct random HISA registration checks for Covered Persons in the stable area;
- (9) conduct random barn inspections to monitor safety and regulatory compliance, including fire safety regulations;
- (10) conduct random inspections to verify acceptable management, equine husbandry, and veterinary practices;
- (11) enforce fire safety rules in the stable area;
- (12) serve as a member or ex officio member of the Racetrack Risk Management Committee; and
- (13) make recommendations to Racetrack management and racing officials to ensure the safety and welfare of Covered Horses and Jockeys, and compliance with applicable horse racing laws and regulations.

2137. Horseshoe Inspector

(a) Racetracks, or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority, shall employ or contract with a Horseshoe Inspector to perform the duties and responsibilities established in Rule 2138.

(b) The Horseshoe Inspector shall:

- (1) be licensed by the State Racing Commission if required in the applicable jurisdiction;
- (2) be knowledgeable of matters pertaining to hooves, horseshoes and the rules of the Authority pertaining to Covered Horses and horseshoes; and
- (3) annually complete continuing education as required by Rule 2182(b)(15).

## 2138. Responsibilities and Duties of Horseshoe Inspector

(a) The Horseshoe Inspector shall have the following responsibilities and duties:

(1) conduct inspections of horseshoes and other orthotics on all Covered Horses entered in a Covered Race on Race Day; and

(2) notify the Stewards of any Covered Horse that is shod with horseshoes that are not compliant with the Authority's rules.

(b) The Horseshoe Inspector, or any Farrier exercising the duties of the Horseshoe Inspector as provided in Rule 2138(a), are authorized to perform other inspections of horseshoes or other orthotics of any Covered Horse by direction of a Steward.

## 2139. Horseshoe Inspections

(a) Pre-race Horseshoe inspection. Every Covered Horse entered to participate in a Covered Horserace shall be inspected on Race Day by a Horseshoe Inspector prior to starting in the Race.

(1) the Trainer of each Covered Horse or a representative of the Trainer who is knowledgeable about the Covered Horse and able to communicate with the Horseshoe Inspector must present the Covered Horse for inspection.

(2) the Horseshoe Inspector's inspection of each Covered Horse prior to participating in a Race shall include, at a minimum, the following:

(i) identification of the Covered Horse; and

(ii) examination of the horseshoe or other orthotics and documentation of any features relating to a violation of horseshoe rules of the Authority.

(b) If, prior to starting a Race, the Horseshoe Inspector is unable to make a determination, or determines that a Covered Horse is wearing non-compliant horseshoes, the Horseshoe Inspector shall notify the Stewards prior to the Covered Horse leaving the paddock.

## 2140. Racehorse Inspections and Monitoring

## 2141. Veterinary Inspections

(a) Veterinary inspections shall be performed by the Regulatory Veterinarians on all Covered Horses entered in a Race. Such inspections shall include the items listed in Rule 2142.

(b) If, prior to starting a Race, a Covered Horse is determined to be unsound for competition, or if the Regulatory Veterinarian is unable to make a determination of racing soundness, the Regulatory Veterinarian shall notify the Stewards that the Covered Horse shall be scratched. The Stewards shall then scratch the Covered Horse from the Race.

#### 2142. Assessment of Racing Soundness

(a) Post-layoff report. The Trainer or Trainer's designee of any Covered Horse that has not raced for 150 or more days shall complete a Layoff Report and submit it to the Authority prior to entry. Nothing in this rule shall alter any state law requiring a post-layoff examination of a Covered Horse.

(b) Post-entry screening. The Regulatory Veterinarian shall perform post-entry screenings of previous pre-Race inspection findings of entered Covered Horses to identify Covered Horses that may be at increased risk for injury. The Regulatory Veterinarian shall review past performances, lay-ups (more than 60 days without a Timed and Reported Workout or Race), Layoff Reports, last 30 days medical history, previous injury and lameness diagnostics, intra-articular corticosteroid injections, previous surgery, and individual Covered Horse risk factors. Additional physical inspection and observation in motion may be performed by the Regulatory Veterinarian.

(c) Race Day veterinary inspection. Every Covered Horse entered to participate in a Covered Horserace shall be inspected by a Regulatory Veterinarian prior to starting in the Race for which it is entered on Race Day.

(1) The Trainer of each Covered Horse or a representative of the Trainer who is knowledgeable about the Covered Horse and able to communicate with Regulatory Veterinarian(s) must present the Covered Horse for inspection.

Covered Horses presented for inspection must have bandages removed, and the legs must be clean and dry. Covered Horses may not be placed in ice until the Regulatory Veterinarian has completed the veterinary inspection and no device or substance shall be applied to the Covered Horse that impedes veterinary clinical assessment on Race Day.

(2) The Regulatory Veterinarian's inspection of each Covered Horse prior to participating in a Race shall include, at a minimum, the following:

- (i) identification of the Covered Horse;
- (ii) ascertainment of the sex of the Covered Horse;
- (iii) performance of an overall inspection of the entire Covered Horse, assessing general appearance, behavior, disposition, posture, and body condition;
- (iv) observation of the Covered Horse jogging in hand, moving toward and away from the Veterinarian so that both hind-end and front-end motion can be evaluated;
- (v) performance of a digital palpation on both distal forelimbs;
- (vi) placement of the Covered Horse on the Veterinarians' List if the Covered Horse does not jog sound or warm up to the Regulatory Veterinarian's satisfaction;
- (vii) visual observation in the paddock and saddling area, during the parade to post, and at the starting gate; and
- (viii) any other inspection deemed necessary by Regulatory Veterinarian(s), including Jockey consultation for the Jockey's mount.

(3) A report summarizing the results of the Race Day inspection under paragraph

(c) shall be submitted to the Authority on the day of the inspection.

(d) Post-race assessment. Post-Race visual observations shall be performed by a

Regulatory Veterinarian on all Covered Horses leaving the Racetrack at the conclusion of every Race.

(1) If a Covered Horse is determined to have Epistaxis or to be physically distressed, medically compromised, injured, or unsound at any time before exiting the racetrack or leaving the Test Barn, the Covered Horse shall be placed on the Veterinarians' List and the Regulatory Veterinarian shall document post-race inspection findings to the Authority.

(2) If a Covered Horse is determined to have skin lacerations, swellings, or welts that resulted from crop use, the Stewards and Attending Veterinarian shall be notified, and the information documented to the Authority.

(e) Training. Regulatory Veterinarians may observe Covered Horses during training activities. Covered Horses deemed physically distressed, medically compromised, injured, or unsound shall be placed on the Veterinarians' List and reported to the Authority.

#### 2143. Racehorse Monitoring

(a) All Covered Horses and Pony Horses entering the Racetrack grounds directly from any location or facility other than a Designated Equine Facility or licensed racing facility within the same state as the receiving Racetrack must have a current health certificate or other health documentation sufficient for importation to the United States and approved by the USDA-APHIS representatives. Required vaccinations shall be current and recorded in the Covered Horse's or Pony Horse's health record. These shall include:

- (1) Certificate of veterinary inspection within the prior 5 days, or fewer days if high risk situations dictate;
- (2) EEE/WEE, WNV, rabies, and tetanus vaccinations within the last 365 days;
- (3) Influenza and Rhinopneumonitis vaccinations within the prior 180 days, or fewer days if high risk situations dictate; and

(4) Negative equine infectious anemia (Coggins) test within the last 365 days or in a shorter period of time if high risk situations dictate.

(b) The applicable Racetrack shall maintain records that document that the requirements of Rule 2143(a) have been satisfied for each Covered Horse entering Racetrack grounds. Such records shall be subject to inspection and audit by the Authority.

(c) Exemption for vaccination requirements. Covered Horses that are imported to the United States to participate in a specific race or races or to enter race training in the United States may, upon application to the Authority, be exempted from the vaccination requirements, with the exception of requirements for Influenza and Rhinopneumonitis, for the following periods:

(1) if the Covered Horse is leaving the United States immediately following the specific race or races, then for the period of USDA temporary importation or transit to an approved USDA location, or

(2) if the Covered Horse is remaining in the United States, then for the period of 14 days following the specific race or races, or from arrival at a Racetrack, whichever is longer.

(d) Each Racetrack shall, upon request by the Authority, submit the following information to the Authority with respect to each Covered Horse on its grounds:

(1) Covered Horse identification;

(2) origin of Covered Horse;

(3) date of entry;

(4) verification of certificate of veterinary inspection; and

(5) verification of vaccinations.

(e) Each Racetrack shall, upon request by the Authority, submit the following information to the Authority with respect to each Covered Horse leaving its grounds:

(1) Covered Horse identification;

- (2) intended destination;
- (3) reason for departure;
- (4) date of exit;
- (5) vehicle license plate; and
- (6) transporter.

(f) Covered Horses moving interstate must also meet the entry requirements of the destination State, the State Racing Commission in the destination State, and the individual Racetracks or Training Facilities to which the Covered Horse is being shipped in the destination State.

#### 2144. Designated Equine Facility

(a) To qualify an equine facility as a Designated Equine Facility, the applicable Racetrack shall certify to the Authority in such form as the Authority may prescribe that it has reviewed and determined that the biosecurity protocols and procedures of the Designated Equine Facility are consistent with the biosecurity protocols and procedures of the Racetrack.

(b) The applicable Racetrack shall maintain records that document that the requirements of Rule 2144(a) have been satisfied for each Designated Equine Facility, including but not limited to the written biosecurity protocols and procedures of the Designated Equine Facility. Such records shall be subject to inspection and audit by the Authority.

#### 2150. Racetrack and Racing Surface Monitoring and Maintenance

##### 2151. Data Collection, Recordkeeping and Submission

(a) Racetracks shall have data collection protocols in place to assist in the proper and consistent maintenance of all racing and training surfaces. Racing and training surface testing and maintenance should be performed based on the Racetrack's written standard operating procedures which are reviewed annually and updated as needed. The Racetrack Safety Committee, or its designees, shall develop and annually update a Racetrack

Surface Standard Practices Document.

(b) All Racetrack design records, racing and training surface maintenance records, surface material tests, and daily tests data shall be recorded in a format acceptable to the Authority and shall be submitted to the Authority. Any test results shall be submitted to the Authority within 1 week of receipt of the test results.

#### 2152. Testing Methods

Surface test methods and surface material test methods must be documented and consistent with testing standards from internationally recognized standards organizations including ASTM International, American Society of Agricultural and Biological Engineers, or other relevant international standards, and when possible for unpublished standards, methods consistent with those documented by the Racing Surfaces Testing Laboratory.

#### 2153. Racetrack Facilities

(a) Racetrack facilities must be designed, constructed, and maintained as described in this Rule to provide for the safety of Covered Persons and Covered Horses.

(b) Rails.

(1) Racetracks shall have inside, outside, and gap rails designed, constructed, and maintained to provide for the safety of Riders and Covered Horses.

(2) The top of the inner and outer rails on dirt and turf courses must be at least 40 inches but not more than 50 inches above the top of the race surface.

(3) Objects within 10 feet of the inside rail shall be flexible enough to collapse upon impact of a Covered Horse or Rider, or sufficiently padded as to prevent injury.

(4) Rails shall be inspected prior to each Race Meet and daily during training and racing events.

(c) Gaps.

(1) All gaps must be clearly marked, must have protective padding covering any sharp edges or unique angles, and have proper mechanisms to allow for secure closure when needed.

(2) Main gaps and on-gaps should include signage with safety rules, Racetrack hours, and other applicable rules.

(3) For Races breaking from a chute there should be sufficient temporary rail extension to prevent Covered Horses from ducking in or out.

(d) Starting gate.

(1) All gates, and the vehicle that moves the gates, must be inspected pre-Race Meet and documented to be in proper working condition.

(2) All gates must have protective padding to ensure the safety of the Covered Horse, Riders and Starting Gate Persons. Protective padding shall protect the Riders and Starting Gate Persons from contact with sharp edges and help to distribute impact loads. All padding shall be designed to ensure durability for outdoor use and shall be capable of maintaining safety and physical integrity during all weather conditions.

(3) Gates and the vehicle that moves the gates shall be inspected and tested each Race Day before the Races and each morning before schooling to ensure proper functioning.

(4) No personnel, other than those required for steering the gate, shall ride on the gate while the gate is in motion or being transported.

(5) Racetracks shall have in place a written plan for the removal of the starting gate after the start of each Race in a safe and timely manner. This plan shall also include procedures for gate removal if the primary removal mechanism fails. The plan shall be reviewed annually by the Racetrack.

(6) Every Starting Gate Person shall wear protective gear when working on or

around the starting gate, including approved helmets and safety vests.

(7) If the starting gate becomes inoperable during racing hours, racing may not continue until the starting gate is brought back to safe operating standards or the inoperable gate is replaced with a properly functioning alternate gate.

(8) A Racetrack shall ensure there is at least 1 Starting Gate Person present for each Covered Horse starting in a Covered Horserace.

(9) A Racetrack shall make at least 1 starting gate and 1 Starting Gate Person available for racehorse schooling during designated gate training hours.

(e) Emergency warning system.

(1) Each Racetrack shall have an operational emergency warning system on all racing and training tracks. The emergency warning system shall be approved by the State Racing Commission, subject to the applicable State Racing Commission electing to enter into an agreement with the Authority. If such agreement does not exist, the emergency warning system shall be approved by the Authority.

(2) The emergency warning system shall be tested twice a week before training or racing.

(3) During training, when the emergency warning system is activated, all persons on horseback shall slow to a walk and no one on horseback shall enter the Racetrack.

(4) The Racetrack announcer shall be trained to utilize the public address system to:

(i) warn Riders of potentially dangerous situations and provide direction;

and

(ii) warn patrons of potentially dangerous situations and provide direction.

(f) The Racetrack shall provide a suitable area for jogging claimed horses in or near the Test Barn or, if approved by the Authority, a secured area used for claimed horse exams.

The jogging area shall be of sufficient length to jog the claimed horse in hand in a straight line of not fewer than 5 strides and have consistent, firm, and level footing, and shall be out of the view of persons not authorized in the Test Barn or secured area.

#### 2154. Racetrack Surface Monitoring

(a) Racetracks shall provide equipment and personnel necessary to maintain the Racetrack surface in a safe and consistent condition.

(b) Racetracks shall have pre-meet inspections 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.

(1) Inspections for dirt and synthetic surfaces shall include the following elements:

(i) determine and document race and training track configurations and geometries, including:

(A) geometry and slopes of straights and turns and slopes at each distance marker pole;

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

(C) cushion and base geometries;

(ii) base inspection, including windrowing and base survey, surface survey, ground penetrating radar, or other method;

(iii) mechanical properties of racing and training tracks using a biomechanical surface tester shall be determined and documented;

(iv) surface material samples of racing and training tracks shall be analyzed for material composition pursuant to the Racetrack Surface Standard Practices Document; and

(v) corrective measures to address issues under paragraphs (i) through (iv) above.

(2) Inspections for turf surfaces shall include the following elements:

(i) determine and document Racetrack configuration and geometry, including:

(A) geometry and slopes of straights and turns and slopes at each distance marker pole;

(B) irrigation systems;

(C) turf profile; and

(D) ensure distances from the finish line to the marker poles are correct;

(ii) document turf species;

(iii) mechanical properties of racing and training tracks using a surface tester should be determined and documented;

(iv) surface material samples of racing and training tracks shall be analyzed for material composition pursuant to the Racetrack Surface Standard Practices Document;

(v) the irrigation system must be tested to evaluate function of all components and water coverage including gaps and overlap; and

(vi) corrective measures to address issues under paragraphs (i) through (v) above.

(c) Daily measurements shall be taken at the beginning of all daily training and racing sessions for racing and training tracks, and taken at each 1/4 mile marker pole at locations 5 and 15 feet outside the inside rail.

(1) For dirt and synthetic surfaces, such daily measurements shall include:

(i) moisture content;

(ii) cushion depth; and

(iii) weather conditions and precipitation at 15-minute intervals from a national or local weather service.

(2) For turf surfaces, such daily measurements shall include:

(i) moisture content; and

(ii) penetration and shear properties.

(d) Surface equipment inventory, surface maintenance logs, and surface material addition or renovation logs shall be documented daily and uploaded weekly by the Racetrack to an electronic database designated by the Authority.

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

(2) Documentation of the source, timing, quantity, material specifications, and method of all additions to the surfaces shall be submitted to the Authority.

2160. Emergency Preparedness

2161. Emergency Drills

(a) Emergency protocols shall be reviewed, and drills shall be conducted, prior to the beginning of and periodically during each Race Meet for purposes of demonstrating the Racetrack's proficiency in managing the following emergencies:

(1) starting gate malfunction;

(2) paddock emergencies;

(3) Equine Injury;

(4) Rider injury;

(5) Starting Gate Person injury;

(6) medical emergencies;

(7) loose horse;

(8) fire;

(9) hazardous weather condition; and

(10) multiple injury scenarios for both Covered Horses and Riders.

#### 2162. Catastrophic Injury

Racetracks and Training Facilities under the jurisdiction of a State Racing Commission shall have protocols in place for instances of Catastrophic Injury to Covered Horses during racing and training.

#### 2163. Fire Safety

Racetracks and Training Facilities under the jurisdiction of a State Racing Commission shall plan for and have protocols in place for instances of fire within their enclosures. Fire and life safety inspections shall be performed in accordance with the local authority and appropriate National Fire Protection Association standards and shall be conducted at the required frequency. Racetracks shall document adherence to the applicable local fire protection authority.

#### 2164. Hazardous Weather

(a) Except as set forth in Rule 2164(b), Racetracks shall comply with the applicable rules and regulations of the applicable State Racing Commission for the delay or cancellation of races due to inclement weather, extreme heat, extreme cold, lightning or other hazardous racing conditions. If the applicable State Racing Commission does not have such rules and regulations, then the Racetracks, in conjunction with its Stewards, Jockeys, and horsemen, shall develop Racetrack-specific protocols for the delay or cancellation of races due to inclement weather, extreme heat, extreme cold, lightning or other hazardous racing conditions. Such protocols shall take into consideration specific weather conditions and shall include a predetermined method for establishing consensus among stakeholders. The first priority of all decisions made shall be the well-being and safety of all persons and animals. The protocols shall include:

(1) designation of the personnel responsible for monitoring weather conditions,

immediately investigating any known impending threat of dangerous weather conditions and determining if conditions exist which warrant delay or cancellation of training or racing and the notification to the public of such dangerous weather conditions;

(2) use of a designated weather watcher and a reliable source for monitoring the weather, including lightning strike distance/radius notifications;

(3) implementation of a dangerous weather protocol, which accounts for extreme heat and chill factors and states that participation in racing or training activities may be modified or canceled if heat or cold conditions are in the extreme range for exertional heat illness, frostbite, or hypothermia;

(4) Designation by the Racetrack of an official responsible for monitoring weather conditions during training and racing hours;

(5) Consideration by the Racetrack of lightning safety guidelines such as the National Athletic Trainers' Association Position Statement, or more recent evidence-based recommendations;

(6) Requirements that the Stewards shall contact Racetrack management when weather conditions may become hazardous, and that the Stewards shall commence a racing and training delay when weather conditions pose risks to human and equine welfare; and

(7) Designation by the Racetrack of an official responsible for enforcing any weather associated training delay.

(b) All Racetracks shall develop and implement a written protocol pertaining to training and racing activities when the Air Quality Index approaches unhealthy levels. The protocol shall contain the following minimum components:

(1) when the Air Quality Index is elevated for the Racetrack's zip code due to particle pollution (defined as an Air Quality Index of 100-150), Responsible

Persons shall monitor Covered Horses and Pony Horses for signs of respiratory inflammation and contact their Attending Veterinarian to evaluate Covered Horses and Pony Horses exhibiting coughing, nasal discharge, or respiratory distress;

(2) when the Air Quality Index for the Racetrack's zip code is considered Unhealthy (defined as an Air Quality Index of > 150), both equine and human participants shall be provided the option to withdraw from competition without penalty. The Air Quality Index shall be closely monitored, and Racetracks shall have discretion to cancel Covered Horseraces and Timed and Reported Workouts if Air Quality Index is trending upward; and

(3) no Covered Horserace or Timed and Reported Workouts shall be conducted when the Air Quality Index for the Racetrack's zip code is at or above 175.

#### 2165. Infectious Disease Management

(a) Plans and protocols shall be put in place by each Racetrack to manage an infectious disease outbreak. Such protocols shall be based on guidelines recommended by the AAEP General Biosecurity Guidelines and AAEP Healthy Horse Protocols: Biosecurity Guidelines for Racetrack Entry and Stabling or more recent versions or developed in consultation with the appropriate State agency or official.

(b) The Regulatory Veterinarian shall maintain written biosecurity guidelines and standard operating procedures and train Racetrack safety personnel in basic biosecurity protocols. All Covered Persons must report any signs that may be attributed to an infectious disease to the Regulatory Veterinarian and Safety Director.

(c) During an infectious disease outbreak, the above requirements may be revised as dictated by the circumstances, and all Covered Persons shall adhere to disease control measures implemented by State Racing Commissions or applicable State veterinary authorities.

(d) The Safety Director, or Regulatory Veterinarian if the Safety Director is not a licensed veterinarian, must notify the Authority and the Chief Veterinarian of the relevant State Department of Agriculture (or comparable State government official) to enable timely and accurate reporting of disease outbreaks at the racetrack to the Equine Disease Communication Center.

#### 2166. Human Ambulance Support

(a) A Racetrack shall ensure that no fewer than 2 properly staffed and equipped Advanced Life Support (“ALS”) ambulances or ALS adapted vehicles are present at the Racetrack during training and racing hours. Upon a request and a showing of undue hardship by the Racetrack, the Racetrack Safety Committee may permit a Racetrack to have 1 ALS ambulance or certified ALS adapted vehicle present at the Racetrack during training and racing hours.

(b) A Racetrack shall not conduct a Covered Horserace or allow Covered Horses on the Racetrack until an ALS ambulance or ALS adapted vehicle is present at the Racetrack and available for service.

(c) If a Racetrack operates a training track in addition to a main track, the Racetrack shall provide at least 1 ALS ambulance, ALS adapted vehicle, Basic Life Support (“BLS”) ambulance or BLS adapted vehicle dedicated to the training track.

(d) Racetracks shall ensure all ambulance staff have been trained in Concussion management and have acknowledged review of the HISA Concussion Protocol. Any Jockey who falls or is thrown from a Covered Horse during a race shall be examined by a medical provider experienced in concussion management and familiar with the HISA Concussion Protocol. The medical provider shall report their findings to the Stewards who, upon the recommendation of the medical provider shall order the Jockey taken off any remaining mounts.

(e) Racetracks shall develop and implement a training program for all ambulance staff to

ensure they are familiar with and adequately trained on the unique safety and incident response issues present in horseracing.

(f) Racetracks shall develop and implement protocols for incidents involving injuries to more than one Covered Person during the same race.

(g) Racetracks shall develop and implement an incentive program to retain skilled and certified ambulance staff experienced in the medical response issues present in horseracing.

(h) The ALS ambulance or ALS adapted vehicle shall follow the field at a safe distance during the running of Covered Horseraces. In the event Racetrack surface conditions prevent the ALS ambulance or ALS adapted vehicle from following the racing field:

(1) the ALS ambulance or ALS adapted vehicle shall be stationed at the Racetrack entrance; and

(2) the ALS paramedic shall move to a chase vehicle or other vehicle capable of maneuvering on the racing surface and shall follow the racing field in that vehicle.

In the event of an incident requiring the ALS ambulance or certified ALS adapted vehicle, the ALS paramedic shall promptly call for it to travel to the appropriate location.

#### 2167. Rider Injury Reporting Procedure

(a) Racetracks or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority, shall develop standard operating procedures for the collection of data associated with all incidents resulting in Rider injuries sustained at the Racetrack and submit such information to the Racetrack Risk Management Committee and the Authority within 10 days of the injury occurrence. Covered Persons involved in, or witnesses to, the circumstances surrounding the injury shall make themselves available to and cooperate with those individuals collecting data for the database.

(b) Data collected shall include:

- (1) name of person injured;
- (2) nature of the injury;
- (3) date and time of day of injury;
- (4) occupation of person;
- (5) safety equipment used;
- (6) cause of the incident;
- (7) weather;
- (8) location of the incident; and
- (9) witness statements.

#### 2168. Equine Ambulance

(a) A dedicated equine ambulance with personnel trained to operate the ambulance shall at all times be available for rapid deployment during racing and training periods. It is recommended that a second ambulance be available in the case of multiple equine injuries or failure of the primary equine ambulance. The primary ambulance must be equipped to:

- (1) navigate on the racetrack during all weather conditions;
- (2) safely transport a horse off the association grounds;
- (3) contain equipment to stabilize distal limb injuries; and
- (4) remove a recumbent horse from the racetrack.

#### 2169. Paddock Safety

Racetracks or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority shall have protocols in place to manage the safety of their saddling paddocks and walking rings. Such protocols shall include crowd management policies as well as emergency response procedures for human and equine injuries. An emergency medical technician or paramedic shall be present

during saddling.

#### 2170. Necropsies

(a) All Covered Horses that die or are euthanized on Racetrack grounds shall have an autopsy (necropsy) examination performed. All Covered Horses that die or are euthanized due to, or related to, a musculoskeletal injury within 72 hours of leaving Racetrack grounds shall have an autopsy (necropsy) examination performed.

(b) Racetracks must have a standard operating protocol that specifies:

- (1) contact information and coordination procedures for the persons and organizations necessary to perform the necropsy;
- (2) transportation options for necropsy cases and invoicing procedures for the cost of transportation;
- (3) secure storage of the body pending transport, and transportation of the body (and body parts, when necessary) in such a way that tissue degradation and the development of post-mortem artifacts are minimized;
- (4) sound infection control practices with respect to equine infectious or zoonotic disease; and
- (5) procedures for reporting necropsy findings.

(c) Racetracks or State Racing Commissions where the applicable State Racing Commission elects to enter into an agreement with the Authority shall coordinate with a diagnostic laboratory equipped with the facilities and trained personnel necessary to perform equine necropsies.

- (1) The diagnostic laboratory shall perform a systematic gross examination of all body systems and shall collect relevant samples for further examination and tests.
- (2) For fatalities related to a musculoskeletal injury, the Racetrack and/or diagnostic laboratory may contract with a diagnostic laboratory that specializes in examination of racehorse musculoskeletal injuries. The affected limb and

contralateral limb (and when appropriate, the skull, vertebral spine or pelvis), shall be shipped to the specialty laboratory for examination, with consideration given to optimizing the condition of the body tissues.

(3) Necropsy findings shall be reported in a manner prescribed by the Authority, and shall be submitted to the Regulatory Veterinarian, the Racetrack Risk Management Committee, and the Authority within 72 hours of receiving the necropsy report. The ancillary test results and the final report shall be submitted to the Regulatory Veterinarian, the Racetrack Risk Management Committee, and the Authority within 72 hours of their receipt.

(d) The cost of necropsies set forth in this Rule 2170 shall be paid by those persons who are responsible for necropsy costs pursuant to existing state rules. In jurisdictions that do not provide for necropsy costs or address the responsibility for payment, the Racetrack shall be responsible for payment.

#### 2180. Safety Training and Continuing Education

#### 2181. Uniform National Trainers Test

Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall require the use of a uniform National Trainers Test in addition to any State licensing requirements. This test shall have a written component and include practical interviews that demonstrate knowledge and proficiency in basic horsemanship skills, knowledge of the Protocol, the Racetrack Safety Program, racing office protocols, State specific information, and basic equine health care.

#### 2182. Continuing Education

(a) Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall identify existing, or provide locally, training opportunities for all Racetrack employees having roles in Racetrack

safety or direct contact with Covered Horses.

(b) Required annual continuing education shall include:

- (1) Regulatory Veterinarians shall complete, on an annual basis, at least 8 hours of continuing education specific to racetrack regulatory medicine;
- (2) Attending Veterinarians shall complete, on an annual basis, at least 8 hours of continuing education specifically applicable to racetrack practice;
- (3) Medical Directors shall complete, on an annual basis, at least 8 hours of continuing education;
- (4) Stewards shall complete at least 16 hours of continuing education every 2 years;
- (5) Safety Directors shall complete, on an annual basis, at least 8 hours of continuing education;
- (6) Trainers shall complete, on an annual basis, at least 4 hours of continuing education;
- (7) assistant trainers shall complete, on an annual basis, at least 4 hours of continuing education;
- (8) Owners shall complete, on an annual basis, at least 2 hours of continuing education;
- (9) Racetrack surface managers shall complete at least 8 hours of continuing education every 2 years;
- (10) Grooms shall complete, on an annual basis, at least 2 hours of continuing education offered in English and Spanish;
- (11) Outriders shall complete, on an annual basis, at least 2 hours of safety and outrider protocol training delivered locally prior to the beginning of a Race Meet;
- (12) Jockeys and Exercise Riders shall complete, on an annual basis, at least 2 hours of safety and rider protocols delivered locally or virtually in English and

Spanish;

(13) Starting Gate Persons shall complete, on an annual basis, at least 2 hours of safety training either delivered locally prior to the beginning of a Race Meet or through the ROAP certification;

(14) equipment operators shall complete, on an annual basis, at least 2 hours of safety training either delivered locally prior to the beginning of a Race Meet or through a continuing education program; and

(15) Farriers and Horseshoe Inspectors shall complete, on an annual basis, at least 2 hours of continuing education and be knowledgeable of HISA's horseshoe regulations.

#### 2183. Sexual Harassment Prevention

Each Racetrack shall implement and enforce a sexual harassment and non-discrimination policy that offers protection to Covered Persons by prohibiting discriminatory behavior at its facilities. At a minimum, the policy shall define and prohibit sexual harassment and discrimination against Covered Persons within the applicable legal protected classifications and provide an effective process for reporting and investigation of prohibited sexual harassment and discrimination. The policy shall also memorialize the Racetrack's authority to impose discipline on any individual found to be in violation of the policy, including but not limited to exclusion from the Racetrack (and all related Racetrack grounds and facilities) and any racing activities.

#### 2190. Jockey and Starting Gate Person Health

#### 2191. Drug and Alcohol Testing

Subject to the applicable State Racing Commission electing to enter into an agreement with the Authority, the State Racing Commission shall develop and implement a testing program for drugs and alcohol for Jockeys and Starting Gate Persons. The program shall include provisions for medications prescribed by licensed medical doctors that do not

affect mental and physical abilities. If a State Racing Commission does not elect to enter into an agreement with the Authority, the Racetracks in such States shall develop and implement a testing program for drugs and alcohol for Jockeys and Starting Gate Persons, subject to the approval of the Authority.

#### 2192. Concussion Management

(a) State Racing Commissions, or Racetracks if the applicable State Racing Commission does not enter into an agreement with the Authority, shall implement the Authority's Concussion management protocol containing the following elements:

- (1) each Jockey shall acknowledge in writing that they have been made aware of the Concussion protocols at least annually;
- (2) a minimum assessment shall include a current Concussion assessment tool examination;
- (3) a return-to-ride guideline shall be established in order to clear a Jockey who has been concussed, or is believed to have been concussed, once the Jockey is declared fit-to-ride; and
- (4) the Stewards shall be notified when a Jockey is not permitted to ride and when the Jockey has been authorized to return to riding.

#### 2193. Insurance

In States where workers compensation benefits are not afforded to Jockeys by State statute or regulation, Racetracks shall maintain a minimum standard of One Million Dollars (\$1,000,000) per incident worth of primary accident medical expense coverage for all Jockeys. The insurance coverage shall be in place for all training and racing activities. A copy of the current policy's declaration page shall be posted in the Jockeys' quarters prior to the beginning of the racing season.

### **2200. Specific Rules and Requirements of the Racetrack Safety Program**

#### 2210. Purpose and Scope

(a) The purpose of Rules 2200 through 2293 is to establish specific safety rules and requirements designed to enhance equine and Rider safety in horseracing.

(b) Violation of, or failure to comply with, the requirements of Rules 2200 through 2293 may result in disciplinary action by racing officials and the Authority.

#### 2215. Welfare and Deprivation of Care

(a) No Covered Person acting alone or in concert with another person shall compromise the welfare of a Covered Horse for competitive or commercial reasons or subject or permit any Covered Horse under their control, custody or supervision to be subjected to or to incur the following:

- (1) any form of cruelty, mistreatment, neglect, or abuse;
- (2) abandonment, injury, maiming, or killing (except for euthanasia for humane reasons and in a manner consistent with the current version of the American Veterinary Medical Association Guidelines for the Euthanasia of Animals);
- (3) administration of any noxious substance; or
- (4) deprivation of necessary care, sustenance, shelter, or veterinary care.

#### 2220. Attending Veterinarian

(a) Subject to Rule 2230(d), only Attending Veterinarians licensed by the State's board of veterinary examiners (or applicable veterinary licensing board) and the State Racing Commission may attend to Covered Horses at any location under the jurisdiction of the State Racing Commission.

(b) Attending Veterinarians at any location under the jurisdiction of a State Racing Commission are under the authority of the Regulatory Veterinarian and the Stewards.

#### 2221. Treatments by Attending Veterinarian

The following limitations apply to treatments by Attending Veterinarians of Covered Horses.

(a) No Controlled Medication shall be prescribed, dispensed, or administered except in the context of a valid Veterinarian-client patient relationship between a Veterinarian, the Responsible Person and the Covered Horse. The Responsible Person is not required to follow the Veterinarian's instructions, but no Controlled Medication may be administered without a Veterinarian having examined the Covered Horse and provided the treatment recommendation. Such relationship requires the following:

(1) the Veterinarian, with the consent of the Responsible Person, has accepted responsibility for making medical judgments about the health of the Covered Horse;

(2) the Veterinarian has sufficient knowledge of the Covered Horse to make a preliminary diagnosis of its medical condition;

(3) the Veterinarian has performed an examination of the Covered Horse and is acquainted with the keeping and care of the Covered Horse;

(4) the Veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(5) the relationship is maintained by veterinary visits as needed; and

(6) the medical judgments of the Veterinarian are independent and are not dictated by the Responsible Person of the Covered Horse.

(b) The Responsible Person and Veterinarian are both responsible for ensuring compliance with this Rule 2221, except that the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the Veterinarian, and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the Responsible Person.

#### 2230. Treatment Restrictions

(a) Only the Responsible Person or their designees shall be permitted to authorize veterinary medical treatment of Covered Horses under their care, custody, and control.

(b) No person other than a Veterinarian licensed to practice veterinary medicine in the applicable State, if required in the applicable State, and registered with the Authority may prescribe medication with instructions for administration by a Responsible Person for a Covered Horse.

(c) Attending Veterinarians shall not have contact with a Covered Horse entered in a Covered Horserace within 24 hours before the scheduled post time of the race in which the Covered Horse is scheduled to compete unless approved by the Regulatory Veterinarian, or such contact is necessitated by an imminent risk to equine welfare, health, or safety. Any contact by an Attending Veterinarian with a Covered Horse entered in a Covered Horserace within 24 hours before the scheduled post time of the race shall be reported to the Regulatory Veterinarian. Any unauthorized contact may result in the Covered Horse being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the Stewards or the Authority.

(d) Notwithstanding Rule 2220(a), the Regulatory Veterinarian may administer emergency treatment to horses on Racetrack grounds when the Attending Veterinarian is not present.

(e) Except as set forth in paragraphs (f) and (g) below, no person shall possess a hypodermic needle, syringe capable of accepting a needle or injectable of any kind on Racetrack grounds or any facility under the jurisdiction of the State Racing Commission, unless otherwise approved in writing by the State Racing Commission.

(f) At any location under the jurisdiction of the State Racing Commission, Veterinarians may use only one-time disposable syringes, needles, or IV infusion sets; and shall dispose of items in a manner approved by the State Racing Commission and applicable State and governmental regulations.

(g) If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the State Racing Commission, that person shall request,

in writing, permission of the Stewards or the State Racing Commission to possess a syringe. The person making the request shall furnish to the Stewards or the State Race Commission a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and shall comply with any conditions and restrictions set by the Stewards and the State Racing Commission.

#### 2240. Veterinarians' List

(a) A Veterinarians' List shall be maintained by the Authority of Covered Horses that are determined to be ineligible to compete in a Covered Horserace in any jurisdiction until released by a Regulatory Veterinarian registered with the Authority.

(b) Covered Horses shall be placed on the Veterinarians' List until removed in accordance with Rules 2241 and 2242:

(1) the following Covered Horses shall be placed on the Veterinarians' List by a Regulatory Veterinarian:

(i) Covered Horses affected by illness, physical distress, medical compromise, unsoundness, injury, Epistaxis, infirmity, heat exhaustion, or deemed unfit to race.

(2) Covered Horses placed on the Veterinarians' List for unsoundness, injury, or Epistaxis are prohibited from participating in a Workout for 7 days.

(3) The following Covered Horses shall be placed on the Veterinarians' List by the Authority:

(i) Covered Horses which have not started in more than 365 days;

(ii) unraced Covered Horses which have not made a start prior to January 1 of their 4-year-old year;

(iii) Covered Horses which have been administered Shock Wave Therapy;

(iv) Covered Horses which have been administered an intra-articular injection;

- (v) Covered Horses which have been administered clenbuterol;
- (vi) Covered Horses designated by the Agency; and
- (vii) Covered Horses currently on a Veterinarian's List in any state, if trying to enter in a Covered Horserace.

(c) The Responsible Person and the Designated Owner (as defined in Rule 1020) shall be notified in writing within 24 hours that their Covered Horse has been placed on the Veterinarians' List.

(d) Diagnostic testing may be required for any Covered Horse placed on the Veterinarians' List, at the discretion of the Regulatory Veterinarian or Association Veterinarian.

#### 2241. Duration of Stay on the Veterinarians' List

(a) Covered Horses placed on the Veterinarians' List in accordance with Rule 2240 shall remain on the Veterinarians' List as follows:

- (1) Covered Horses placed on the Veterinarians' List for unsoundness shall remain on the list for a minimum of 14 days;
- (2) Covered Horses placed on the Veterinarians' List two or more times for unsoundness within the previous 365 days shall remain on the Veterinarians' List for a minimum of 45 days for the second time, a minimum of 75 days for the third time, and shall be permanently barred for life from further participation in Covered Horseraces for the fourth time;
- (3) Covered Horses placed on the Veterinarians' List for Epistaxis shall remain on the list for a minimum of 14 days;
- (4) Covered Horses placed on the Veterinarians' List two or more times for Epistaxis within the previous 365 days shall remain on the Veterinarians' List for a minimum of 30 days for the second time, for a minimum of 180 days for the

third time, and shall be permanently barred for life from further participation in Covered Horseraces for the fourth time;

(5) Covered Horses placed on the Veterinarians' List for illness, physical distress, medical compromise, injury, infirmity, or heat exhaustion shall remain on the list for a minimum of 7 days;

(6) Covered Horses treated with Shock Wave Therapy shall be placed on the Veterinarians' List for 30 days and are prohibited from participating in a Workout for 14 days;

(7) Except as set forth in Rule 2271(a)(11) and Rule 2271(a)(12), Covered Horses administered any intra-articular injection(s) shall be placed on the Veterinarians' List for 14 days and are prohibited from participating in a Workout for 7 days;

(8) Covered Horses administered clenbuterol shall be placed on the Veterinarians' List until they have undergone a release protocol approved by the Agency; and

(9) if before, during, or after the workout for removal from the Veterinarians' List, the Covered Horse is deemed to be unsound or to have Epistaxis, the stay on the Veterinarians' List shall be extended an additional 30 days, and further diagnostic testing may be required as determined by the Regulatory Veterinarian.

#### 2242. Removal of Covered Horses from the Veterinarians' List

(a) Regulatory Veterinarians may remove Covered Horses from the Veterinarians' List in accordance with Rule 2242 and shall document such removal to the Authority.

(b) A Covered Horse placed on the Veterinarians' List which has not started in more than 365 days or has not made a start prior to January 1 of its 4-year-old year, or has been placed on the Veterinarians' List as unsound or as having experienced Epistaxis may be removed from the Veterinarians' List upon satisfaction of paragraphs (1) through (7) below.

(1) the Trainer and Attending Veterinarian must observe the Covered Horse jog and submit to the Regulatory Veterinarian a co-signed statement that the Covered Horse is fit to perform a Workout. If the Covered Horse does not perform the Workout for the Regulatory Veterinarian within 7 days, the Trainer and Attending Veterinarian must observe the Covered Horse again at the jog and submit a new co-signed statement.

(2) any diagnostics required by the Regulatory Veterinarian who placed the Covered Horse on the Veterinarians' List must be produced by the Responsible Person, and any associated diagnostic criteria required by the Regulatory Veterinarian must be satisfied, prior to requesting permission to work the Covered Horse for removal.

(3) the Trainer must then apply no less than 48 hours in advance of the Workout to the Regulatory Veterinarian for permission to work the Covered Horse for removal from the Veterinarians' List.

(4) the Covered Horse must perform a Workout under the supervision of the Regulatory Veterinarian and demonstrate to the satisfaction of the Regulatory Veterinarian that the Covered Horse is sound to race.

(5) the Regulatory Veterinarian must determine, no earlier than 30 minutes or later than 2 hours after the Workout conducted pursuant to paragraph (b)(4) above, that there is no evidence or sign of Epistaxis, physical distress, medical compromise, or unsoundness.

(6) a blood sample shall be collected from the Covered Horse following the Workout, and in accordance with Rule 3132(e), is subject to all of the same requirements that apply to Sample collection at Covered Horseraces.

(7) the Regulatory Veterinarian shall communicate the determination made in paragraph (b)(5) above and the results of the testing conducted pursuant to

paragraph (b)(6) above to the Regulatory Veterinarian who placed the Covered Horse on the list, or in that Regulatory Veterinarian's absence, with a Regulatory Veterinarian from the same Racetrack, who then may release the Covered Horse from the Veterinarians' List.

(c) A Covered Horse which has not started in more than 365 days or has not made a start prior to January 1 of its 4-year-old year may perform a Workout in the presence of the Regulatory Veterinarian beginning 335 days since its last start or, if unraced, December 1st of its 3-year-old year. If the Covered Horse has not started within 60 days of being released by the Regulatory Veterinarian, the Covered Horse must fulfill the requirements in 2242(b) again.

(d) A Covered Horse placed on the Veterinarians' List for illness, physical distress, medical compromise, injury, infirmity, or heat exhaustion may be removed from the Veterinarians' List after expiration of the applicable minimum duration set forth in Rule 2241 and sound health has been declared by the Attending Veterinarian and the Regulatory Veterinarian and documented to the Authority.

#### 2250. Covered Horse Treatment History and Records

#### 2251. Veterinary Reports

(a) All Veterinarians shall provide treatment records pursuant to Rule Series 3000. In addition to the uses set forth therein, these records may be used by Regulatory Veterinarians in the performance of their duties at the Racetrack, for transfer to the new Responsible Person of a Covered Horse, and for purposes of research conducted by the Authority in accordance with the Act to enhance the safety and welfare of racehorses. Subject to the approval of the Authority, records may also be accessed by the State Racing Commission or the Stewards.

(b) For treatments, procedures, and surgeries performed at a location licensed by a State Racing Commission or a Training Facility, and in addition to the information required to

be submitted by Veterinarians pursuant to Rule Series 3000, every Veterinarian who examines or treats a Covered Horse shall, within 24 hours after such examination or treatment, submit to the Authority the following information in an electronic format designated by the Authority:

- (1) name and HISA ID of the Covered Horse or, if unnamed, the registered name of the dam and year of foaling;
- (2) name and HISA ID of the Responsible Person of the Covered Horse; (3) name and HISA ID of the Veterinarian;
- (4) contact information for the Veterinarian (phone number, email address);
- (5) any information concerning the presence of unsoundness and responses to diagnostic tests;
- (6) diagnosis;
- (7) condition treated;
- (8) the name of any medication, drug, substance, or procedure administered or prescribed, including date and time of administration, dose, route of administration (including structure treated if local administration), frequency, and duration (where applicable) of treatment;
- (9) any non-surgical procedure performed (including but not limited to diagnostic tests, imaging, and shockwave treatment) including the structures examined/treated and the date and time of the procedure;
- (10) any surgical procedure performed including the date and time of the procedure; and
- (11) any other information necessary to maintain and improve the health and welfare of the Covered Horse.

(c) For treatments, procedures, and surgeries performed at a location that is not a Training Facility or is not licensed by a State Racing Commission, and in addition to the

information required to be submitted by Veterinarians pursuant to Rule Series 3000, every Veterinarian who examines or treats a Covered Horse shall, within 24 hours of ambulatory care, outpatient care, or discharge from a clinic or hospital, submit to the Authority the following information in an electronic format designated by the Authority:

- (1) name and HISA ID of the Covered Horse or, if unnamed, the registered name of the dam and year of foaling;
- (2) name and HISA ID of the Responsible Person for the Covered Horse;
- (3) name and HISA ID of the Veterinarian;
- (4) contact information for the Veterinarian (phone number, email address);
- (5) any information concerning the presence of unsoundness;
- (6) summary of all diagnostic tests and test results;
- (7) any intra-articular diagnostic and therapeutic medications administered or prescribed, including the date and time of the treatment;
- (8) administration of Shock Wave Therapy, including the date and time of the Shock Wave Therapy; and
- (9) any surgical procedure performed including the date and time of the procedure.

#### 2252. Responsible Persons' Records

(a) In addition to the information required to be submitted by Responsible Persons under Rule Series 3000, a Responsible Person is responsible for maintaining a record of medical, therapeutic, and surgical treatments and procedures for every Covered Horse in the Responsible Person's control.

(b) For purposes of this Rule, the term treatment:

- (1) means the administration of any medication or substance containing a medication to a Covered Horse by a Responsible Person or the Responsible Person's designee;

(2) includes the administration of medications that are prescribed by a Veterinarian but administered by the Responsible Person or the Responsible Person's designee; and

(3) notwithstanding Rule 3040(b)(8), specifically excludes medications or procedures directly administered by a Veterinarian or that Veterinarian's employees.

(c) Records must include the information outlined in paragraphs (1) and (2) below.

(1) For medical treatments:

(i) name and HISA ID of the Covered Horse or, if unnamed, the registered name of the dam and year of foaling;

(ii) name and HISA ID of the Responsible Person;

(iii) generic name of the drug, or brand name if a non-generic drug is used;

(iv) name and HISA ID of the prescribing Veterinarian;

(v) date of the treatment;

(vi) route of administration;

(vii) dosage administered;

(viii) approximate time (to the nearest hour) of each treatment; and

(ix) full name and contact information of the individual who administered the treatment.

(2) For medical procedures, including, but not limited to, Shock Wave Therapy, physiotherapy, acupuncture, chiropractic, and surgeries:

(i) name and HISA ID of the Covered Horse, or, if unnamed, the registered name of the dam and year of foaling;

(ii) name and HISA ID of the Responsible Person;

(iii) diagnosis and condition being treated;

(iv) name of procedure or surgery;

- (v) date of the procedure;
- (vi) full name and contact information of the individual who administered or performed the procedure; and
- (vii) any other information necessary to maintain and improve the health and welfare of the Covered Horse.

(d) In addition to the uses of records set forth in the Rule Series 3000, records may be used by the Regulatory Veterinarians in the performance of their duties at the Racetrack, for transfer of medical records to the new Responsible Person of a Covered Horse, and for purposes of research conducted by the Authority in accordance with the Act to enhance the safety and welfare of racehorses. Subject to the approval of the Authority, records may also be accessed by the State Racing Commission or the Stewards.

(e) Nothing set forth in the rules of the Authority shall limit the Authority's access to, or use of, records submitted under any provision in the Rule 2000 Series.

#### 2253. Records for Covered Horses Shipping to the Racetrack

(a) If a Covered Horse is not stabled at a facility under the Authority's jurisdiction for the full 30 days prior to a Race or Workout for purposes of removal from the Veterinarians' List, the Responsible Person shall obtain and maintain the following information:

- (1) name and HISA ID of the Covered Horse or, if unnamed, the registered name of the dam and year of foaling;
- (2) generic name of the drug, or brand name of the drug if a non-generic drug is used;
- (3) date and duration of the treatment;
- (4) route of administration;
- (5) dosage administered;
- (6) surgical procedures;
- (7) non-surgical therapies and procedures;

- (8) daily log of exercise activities at the facility;
- (9) daily log of treatments and procedures at the facility; and
- (10) any other information necessary to maintain and improve the health and welfare of the Covered Horse.

(b) In addition to the uses of records set forth in the Rules Series 3000, records may be used by the Regulatory Veterinarians in the performance of their duties at the Racetrack, for transfer of medical records to the new Responsible Person of a Covered Horse, and for purposes of research conducted by the Authority in accordance with the Act to enhance the safety and welfare of racehorses. Subject to the approval of the Authority, records may also be accessed by the State Racing Commission or the Stewards.

#### 2260. Claiming Races

#### 2261. Transfer of Claimed Covered Horse Records

(a) Entry of a Covered Horse subject to being claimed in a Claiming Race implies consent of the Responsible Person to the transfer of the following records to the new Responsible Person of the claimed Covered Horse:

- (1) all medical records required to be maintained pursuant to Rules 2252 and 2253; and
- (2) all veterinary records required to be submitted pursuant to Rule 2251.

(b) If a Covered Horse is successfully claimed by a new Responsible Person, the previous Responsible Person must transfer the Covered Horse's medical records required to be maintained pursuant to Rule 2252 and Rule 2253 to the new Responsible Person within 3 calendar days of transfer of the claimed Covered Horse to the new Responsible Person.

#### 2262. Void Claim

(a) Except as provided in paragraphs (e) and (g), title to a Covered 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 Covered Horse becomes a starter.

(b) All claimed Covered Horses shall go to the Test Barn, or, if approved by the Authority, the secured area used for claimed Covered Horse inspections, for observation by the Regulatory Veterinarian.

(c) Test Barn or approved secured area observation:

(1) upon entry into the Test Barn or approved secured area, a claimed Covered Horse shall be periodically observed for no less than 30 minutes during the “cooling out” process, unless excused by the Regulatory Veterinarian.

(2) a claimed Covered Horse shall be observed by the Regulatory Veterinarian at the completion of any required sample collection, or immediately before the Covered Horse is released from the Test Barn or approved secured area, to determine whether the claimed Covered Horse will be placed on the Veterinarians’ List for Epistaxis, or as unsound or lame.

(3) the minimum criteria for observation by the Regulatory Veterinarian are:

(i) to assess the claimed Covered Horse for signs of Epistaxis or any other concerning clinical abnormalities; and

(ii) to jog the claimed Covered Horse in hand in a straight line of not fewer than 5 strides moving toward and away from the Regulatory Veterinarian.

(d) If a claimed Covered Horse is placed on the Veterinarians’ List for Epistaxis, or as unsound or lame, it is the responsibility of the Regulatory Veterinarian to notify the Stewards immediately so that the Stewards may order the Claim voided.

(e) The Claim shall be voided, and ownership of the Covered Horse retained by the original Owner, if:

(1) the Covered Horse dies or is euthanized before the Covered Horse is released to the claimant;

(2) the Covered Horse is vanned off of the racing track and placed on the Veterinarians' List for Epistaxis, or as unsound or lame; or

(3) the Regulatory Veterinarian determines pursuant to the observation described in Rule 2262(c)(1) that the Covered Horse will be placed on the Veterinarians' List for Epistaxis, or as unsound or lame before the Covered Horse is released to the successful claimant.

(f) The Claim shall not be voided if, prior to the Race in which the Covered Horse is claimed, the claimant elects to claim the Covered Horse by checking the appropriate box on the claim slip regardless of whether the Regulatory Veterinarian determines the Covered Horse will be placed on the Veterinarians' List for Epistaxis or as unsound or lame.

(g) Notwithstanding Rule 3060(a) and 3070(c), and subject to Rule 2262(h), if a post-race sample collected from a claimed Covered Horse on the day of the Claim results in an Adverse Analytical Finding, the claimant shall be promptly notified by the Agency or the Authority and the claimant shall have the option to void the claim. The claimant shall have 48 hours from notification of the Adverse Analytical Finding to void the claim by submitting in writing to the Stewards the claimant's decision to void the claim.

If the claimant chooses to void the Claim:

(1) the claimant shall be entitled to the return from the prior Owner of all sums paid for the claimed Covered Horse;

(2) the claimant shall be entitled, upon submission of expense records, to recoup reasonable expenses from the prior Owner related to the care, custody and control of the Covered Horse incurred after the date of the claim; and

(3) the claimed Covered Horse shall be returned to the prior Owner.

(h) A claimant shall not have the option to void a Claim pursuant to Rule 2262(g) if any of the following events have occurred since the Claim:

- (1) the claimed Covered Horse has made a start in a Covered Horserace or race;
- (2) the claimant failed to exercise due care in maintaining and boarding the claimed Covered Horse;
- (3) the claimant made material alterations to the claimed Covered Horse; or
- (4) the claimed Covered Horse dies or is euthanized.

#### 2263. Waiver Claiming Option

(a) At time of entry into a Claiming Race an Owner or Responsible Person may opt to declare a Covered Horse ineligible to be claimed, provided:

- (1) the Covered Horse has not started in 120 days;
- (2) the Covered Horse's last start must have been for a claiming price; and
- (3) the Covered Horse is entered in a claiming race with a claiming price equal to or greater than the claiming price for which it last started.

(b) A Responsible Person may opt to declare a Covered Horse ineligible to be claimed for a second consecutive race, provided:

- (1) the waiver must have been asserted in the first race back to be eligible for the second waiver;
- (2) if the Covered Horse wins the first race back, it is ineligible for the second waiver;
- (3) if the Covered Horse changes majority ownership subsequent to the first race, it is ineligible for the second waiver; and
- (4) the provisions in 2263(a)(3) still apply.

#### 2270. Prohibited Practices and Requirements for Safety and Health of Covered Horses

##### 2271. Prohibited Practices

(a) The following are prohibited practices:

(1) 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 Covered Horse's health and welfare.

(2) use of Shock Wave Therapy in a manner that may desensitize any limb structures during racing or training.

(3) surgical or chemical neurectomy to cause desensitization of musculoskeletal structures associated with the limbs. Horses within the foal crop of 2023 or later shall not be allowed to participate in a Covered Horserace or a Timed and Reported Workout if they have been subject to the procedure(s) described in this Rule 2271(a)(3).

(4) pin-firing and freeze-firing of the shins (dorsal surface of the third metacarpal/metatarsal bones) are prohibited. Horses within the foal crop of 2023 or later shall not be allowed to participate in a Covered Horserace or a Timed and Reported Workout if their shins have been pin-fired or freeze-fired.

(5) pin-firing of any structure. Horses within the foal crop of 2023 or later shall not be allowed to participate in a Covered Horserace or a Timed and Reported Workout if any structure on their body has been pin-fired.

(6) application of any substance to cause vesiculation, blistering, or any physical disruption of the epidermis or surface of the skin.

(7) injection of any substance to cause inflammation or a counter-irritant effect.

(8) the use of a device to deliver an electrical shock to the Covered Horse including but not limited to cattle prods and batteries.

(9) the use of any medical therapeutic device requiring an external power source within 48 hours prior to the start of the published post time for which a Covered Horse is scheduled to race. This includes but is not limited to pulsed

electromagnetic field (PEMF), laser, nebulizer, electro-magnetic blankets, and boots.

(10) the use of acupuncture within 48 hours prior to the start of the published post time for which a Covered Horse is scheduled to race.

(11) notwithstanding Rule 4222, and except as set forth in Rule 2271(a)(12), any Covered Horse treated with any intra-articular injection of any joint shall not be permitted to perform a Workout for 7 days following treatment or participate in a Covered Horserace for 14 days following treatment.

(12) notwithstanding Rule 2271(a)(11) and Rule 4222, any Covered Horse treated with any corticosteroid intra-articular injection of the metacarpophalangeal or metatarsophalangeal joint shall not be permitted to perform a Workout for 14 days following treatment or participate in a Covered Horserace for 30 days following treatment.

(b) The Responsible Person of any Covered Horse that violates the prohibitions established in Rule 2271(a)(11) or Rule 2271(a)(12) shall be subject to the following penalty schedule:

(1) first violation (within a 365-day period): \$3,000 fine.

(2) second violation (within a 365-day period): \$6,000 fine, 10-day suspension from participating in any Timed and Reported Workout or Covered Horserace.

(3) third violation (within a 365-day period): \$10,000 fine, 30-day suspension from participating in any Timed and Reported Workout or Covered Horserace.

(4) fourth violation (within a 365-day period): \$20,000 fine, 60-day suspension from participating in any Timed and Reported Workout or Covered Horserace.

(5) fifth and subsequent violations (within a 365-day period): \$25,000 fine, 120-day suspension from participating in any Timed and Reported Workout or Covered Horserace.

(c) If the Covered Horse is the subject of 2 or more violations of the prohibitions established in Rule 2271(a)(11) or Rule 2271(a)(12) within a 365-day period, the Covered Horse may be placed on the Veterinarians' List for 30 days.

#### 2272. Shock Wave Therapy

(a) The use of Shock Wave Therapy shall be limited to licensed Veterinarians and, in addition to the reporting required under Rule 2251, must be reported by the Responsible Person to the Regulatory Veterinarian within 48 hours after treatment.

(b) Shock Wave Therapy treatment administered to a Covered Horse may only be performed using a machine that is registered with the Authority.

(c) Any Covered Horse treated with Shock Wave Therapy shall be placed on the Veterinarians' List and shall not be permitted to Race for 30 days following treatment or perform a Workout for 14 days following treatment.

(d) Failure to report Shock Wave Therapy in accordance with Rule 2251 shall subject the Veterinarian to a suspension of the Veterinarian's registration for a period not to exceed 1 year and a fine not to exceed \$10,000.

(e) Failure to report Shock Wave Therapy in accordance with Rule 2272(a) shall subject the Responsible Person to a suspension of the Responsible Person's registration for a period not to exceed 1 year and a fine not to exceed \$10,000.

(f) The Stewards shall adjudicate all alleged violations of this Rule 2272. For purposes of determining the period of suspension and the amount of the fine to be imposed under Rule 2272(d) and Rule 2272(e), the Stewards shall consider all mitigating and aggravating factors presented by the Veterinarian or Responsible Person, including the severity of the underlying circumstances or conduct giving rise to the violation. Examples of aggravating factors shall include, but are not limited to, a Covered Horse that was removed from Racetrack grounds with the intent to evade the reporting requirements under this Rule 2272; and multiple violations of this Rule 2272 within a 365-day period.

### 2273. Other Devices

No electrical, mechanical, or other device, which is purchased, designed, or used with the intent to increase or retard the speed of a Covered Horse, other than a riding crop, shall be possessed by anyone, or applied by anyone, to a Covered Horse at any time on Racetrack grounds.

### 2274. Other Device Penalties

(a) Penalties for violations of Rule 2273 shall be as follows:

(1) for a first offense, loss of eligibility for, or revocation of, registration with the Authority for 10 years.

(2) for any subsequent violation, the penalty shall be a lifetime ban from registration with the Authority.

### 2275. Communication Devices

(a) The use of a hand-held communication device by a Rider is prohibited while the Rider is on a Covered Horse or Pony Horse.

(b) A Rider, while on a Covered Horse or Pony Horse, shall not wear an audio device that obstructs or impairs the Rider's ability to hear other horses, Riders, hazards, or the Racetrack's emergency warning system.

### 2276. Horseshoes

(a) The following prohibitions apply to the use of horseshoes during training and racing:

(1) on dirt surfaces, Traction Devices (as defined in Rule 2010) other than full rims 2 millimeters or less in height from the ground surface of the horseshoe are prohibited on forelimb horseshoes. Traction Devices other than full rims 4 millimeters or less in height from the ground surface of the horseshoe, or toe grabs 4 millimeters or less in height from the ground surface of the horseshoe, are prohibited on hindlimb horseshoes.

(2) on synthetic surfaces, Traction Devices other than full rims that are 2 millimeters or less in height from the ground surface of the horseshoe are prohibited on forelimb and hindlimb horseshoes.

(3) on turf surfaces, Traction Devices are prohibited on forelimb and hindlimb horseshoes.

#### 2280. Use of Riding Crop

(a) Subject to paragraphs (b) and (c) of this Rule, a Jockey who uses a riding crop on a Covered Horse during a Covered Horserace shall do so only in a professional manner consistent with maintaining focus and concentration of the Covered Horse for safety of Covered Horses and Riders, or for encouragement to achieve optimal performance.

(b) A Jockey may:

(1) use the crop only on the hindquarters or the shoulders to activate and focus the Covered Horse;

(2) use the crop a maximum of 6 times during a race. Use of the crop shall be considered any contact of the crop with the Covered Horse except for a tap to the shoulder of the Covered Horse as permitted by Rule 2280(b)(4);

(3) use the crop in increments of 2 or fewer strikes. A Jockey must allow at least 2 strides for the Covered Horse to respond before using the crop again;

(4) tap the Covered Horse on the shoulder with the crop while both hands are holding on to the reins and both hands are touching the neck of the Covered Horse. A tap to the shoulder of a Covered Horse in accordance with the first sentence of this paragraph (4) shall not count towards the 6 permitted uses of the crop established in Rule 2280(b)(2);

(5) show or wave the crop to the Covered Horse without physically contacting the Covered Horse; and

(6) use the crop to preserve the safety of Covered Horses and Jockeys.

(c) A Jockey shall not:

- (1) raise the crop with the Jockey's wrist above the Jockey's helmet when using the crop;
- (2) injure the Covered Horse with the crop or leave any physical marks, such as welts, bruises, or lacerations;
- (3) use the crop on any part of the Covered Horse's body other than the shoulders or hindquarters;
- (4) use the crop during the post parade or after the finish of the race other than to avoid a dangerous situation or preserve the safety of Covered Horses and Riders;
- (5) use the crop if the Covered Horse has obtained its maximum placing;
- (6) use the crop persistently even though the Covered Horse is showing no response;
- (7) use a crop on a 2 year-old Covered Horse in races before April 1 of each year other than to avoid a dangerous situation or preserve the safety of Covered Horses and Riders;
- (8) strike another horse or person with the crop; or
- (9) strike a Covered Horse with any object other than a riding crop that conforms to the requirements established in Rule 2281.

(d) In any Race in which a Jockey will ride without a crop, that fact shall be declared at entry, included in the official program, and an announcement of that fact shall be made over the public address system.

#### 2281. Riding Crop Specifications

(a) Riding crops are subject to inspection by the Safety Officer, Stewards, and the clerk of scales.

(b) All riding crops must be soft-padded.

(c) Riding crops shall have a shaft and a flap or smooth foam cylinder and must conform to the following dimensions and construction:

- (1) the maximum allowable weight shall be 8 ounces;
- (2) the maximum allowable length, shall be 30 inches;
- (3) the minimum diameter of the shaft shall be three-eighths of one inch;
- (4) the shaft, beyond the grip, must be smooth with no protrusions or raised surface and covered by shock absorbing materials;
- (5) there shall be no binding within 7 inches of the end of the shaft;
- (6) the flap or smooth foam cylinder is the only allowable attachment to the shaft and must meet the following specifications:

- (i) shall have no reinforcements;
- (ii) shall have a maximum length beyond the shaft of one inch;
- (iii) shall have a minimum diameter of 0.8 inches and a maximum width of 1.6 inches;
- (iv) there shall be no other reinforcements or additions beyond the end of the shaft;
- (v) shall be made of shock absorbing material with a compression factor of at least 5 millimeters;
- (vi) shall be made of a waterproof, ultraviolet, and chemical resistant flap or foam material that is durable and preserves its shock absorption in use under all conditions; and
- (vii) shall be replaced after reasonable wear and tear is visibly evident.

(d) Riding crops shall not be altered and shall have a mark identifying the name and manufacturer of the crop.

2282. Riding Crop Violations and Penalties

(a) Violations of Rule 2280 shall be categorized as follows, with the exception that use of the crop for the safety of horse and Rider shall not count toward the total crop uses:

(1) Class 3 Violation – 1 to 3 strikes over the limit.

(2) Class 2 Violation – 4 to 9 strikes over the limit.

(3) Class 1 Violation – 10 or more strikes over the limit.

(b) Unless the Stewards determine the merits of an individual case warrant consideration of an aggravating or mitigating factor, the penalties for violations are as follows:

<b>PURSE</b>	<b>Class 3</b>	<b>Class 2</b>	<b>Class 1</b>
<b>Up to \$9,000</b>	Fine: \$150 AND Minimum 1-day suspension	Fine: \$300 AND Minimum 3-day suspension AND Disqualification of the horse from the race*	Fine: \$500 AND Minimum 5-day suspension AND Disqualification of the horse from the race*
<b>\$9,001 - \$50,000</b>	Fine: \$250 AND Minimum 1-day suspension	Fine: \$500 AND Minimum 3-day suspension AND Disqualification of the horse from the race*	Fine: \$750 AND Minimum 5-day suspension AND Disqualification of the horse from the race*
<b>\$50,001 - \$200,000</b>	Fine: \$500 AND Minimum 1-day suspension	Fine: \$750 AND Minimum 3-day suspension AND Disqualification of the horse from the race*	Fine: \$1000 AND Minimum 5-day suspension AND Disqualification of the horse from the race*
<b>\$200,001 - \$500,000</b>	Fine: 10% of Jockey's portion of the purse or \$750 whichever is > AND Minimum 1-day suspension	Fine: 20% of Jockey's portion of the purse or \$1000 whichever is > AND Minimum 3-day suspension AND Disqualification of the horse from the race*	Fine: 30% of Jockey's portion of the purse or \$2000 whichever is > AND Minimum 5-day suspension AND Disqualification of the horse from the race*
<b>\$500,001- higher</b>	Fine: 10% of Jockey's portion of the purse or \$1000 whichever is > AND Minimum 1-day suspension	Fine: 20% of Jockey's portion of the purse or \$2000 whichever is > AND Minimum 3-day suspension AND Disqualification of the horse from the race*	Fine: 30% of Jockey's portion of the purse or \$3000 whichever is > AND Minimum 5-day suspension AND Disqualification of the horse from the race*

\*Disqualification of the horse from the race includes forfeiture of the purse and all attendant benefits, including but not limited to: placing, black type earnings, automatic entry berths, and trophies. Parimutuel payouts are not affected.

(c) Except for violations of Rule 2280(b)(2), for which penalties are imposed pursuant to Rule 2282(a) and (b), the Stewards may impose any of the penalties set forth in Rule 8200(b) for violations of Rules 2280 and 2281.

2283. Multiple Violations of Rule 2280

(a) Stewards shall submit violations of Rule 2280 to the Authority.

(b) Multiple violations of Rule 2280 within a 180-day period shall be subject to the enhanced penalties in paragraph (c) of this Rule.

(c) For each violation after the first violation within a 180-day period, the fine and the suspension day(s) associated with the current violation, as established in Rule 2282(b), shall be multiplied by the number of cumulative violations of any class (Class 1, 2, and 3 violations) within the prior 180 calendar days. The following examples demonstrate the application of this rule:

(1) 1 prior violation + current violation = 2 x fine and 2 x suspension day(s) of the current violation.

(2) 2 prior violations + current violation = 3 x fine and 3 x suspension day(s) of the current violation.

(3) 3 prior violations + current violation = 4 x fine and 4 x suspension day(s) of the current violation.

#### 2284. Redistribution of Purse

Upon the disqualification of a Covered Horse from a Covered Horserace pursuant to the Rule 2000 Series, the purse shall be redistributed in accordance with the revised order of finish.

#### 2285. Intermediate Appeal of Violations.

(a) Notwithstanding any other provision in the rules of the Authority, any appeal of a Stewards ruling issued for violation of any rule set forth in Rule 2280 or 2281 shall be heard initially by the Internal Adjudication Panel established in the Rule 7000 Series. The Internal Adjudication Panel shall appoint 3 members from the pool of adjudicators to hear the appeal.

(b) An appeal made pursuant to this Rule 2285 shall not automatically stay the Stewards' ruling. A request for a stay pending an appeal under this Rule 2285 may be made to the Board pursuant to the procedures established in Rule 8350(c).

(c) A party to the Stewards' ruling may appeal to the Internal Adjudication Panel by filing with the Authority a written request for an appeal within 10 calendar days of receiving the Stewards' written ruling. The appeal request shall contain the following information:

- (1) the name, address, and telephone number, if any, of the appellant;
- (2) a description of the objection(s) to the ruling;
- (3) a statement of the relief sought; and
- (4) whether the appellant desires to have a hearing of the appeal.

(d) The Internal Adjudication Panel may waive the requirement that a written submission be filed by the appellant and permit the appellant to make an oral presentation at a hearing if doing so is in the interest of justice and the conduct of the hearing will not prejudice any of the other parties.

(e) If the appellant requests a hearing, the Internal Adjudication Panel shall set a date, time, and place for a hearing. Notice shall be given to the appellant in writing and shall set out the date, time, and place of the hearing, and shall be served personally or sent by electronic or U.S. mail to the last known address of the appellant. If the appellant objects to the date of the hearing, the appellant may obtain a continuance, but the continuance shall not automatically stay imposition of a sanction or prolong a stay issued by the Board. At the discretion of the Internal Adjudication Panel, the hearing may be conducted in person, or by means of an audio-visual videoconferencing system or a telephone audio system.

(f) If the appellant does not request a hearing, the Internal Adjudication Panel may in its discretion review a Stewards' ruling based solely upon written submissions scheduled for filing with such timing and response requirements as the Internal Adjudication Panel may require.

(g) Upon review of the Stewards' ruling which is the subject of the appeal, the Internal

Adjudication Panel shall uphold the ruling unless it is clearly erroneous or not supported by the evidence or applicable law.

(h) Upon completing its review, the Internal Adjudication Panel shall issue a written decision based on the record and any further proceedings, testimony, or evidence. The decision shall:

(1) affirm the Stewards' ruling; or

(2) reject or modify the Stewards' ruling, in whole or in part.

(i) Any decision rendered by the Internal Adjudication Panel may be appealed to the Board of the Authority for review pursuant to Rule 8350. The Board may in its discretion:

(1) schedule a hearing to hear the appeal under the procedures set forth in Rule 8350; or

(2) decide the appeal based solely upon the record and any written submissions required to be filed by the Board. The Board may adopt the decision of the Internal Adjudication Panel.

2286. Procedures for Adjudications of Violations in the Rule 2200 Series.

(a) Notwithstanding any provision in the Rule 8000 Series to the contrary, any matter referred to the Internal Adjudication Panel pursuant to Rule 8320(b)(1) shall be adjudicated in conformity with the procedures established for an initial hearing before the Racetrack Safety Committee or the Board of the Authority as set forth in Rule 8340 (c) through (j). All references to the "Board" or the "Racetrack Safety Committee" in Rule 8340 (c) through (j) shall be deemed to be references to the "Internal Adjudication Panel".

(b) Notwithstanding any provision in the Rule 8000 Series to the contrary, any matter referred to the independent Arbitral Body pursuant to Rule 8320(b)(2) shall be adjudicated in conformity with the procedures established for an initial hearing before the

Racetrack Safety Committee or the Board of the Authority as set forth in Rule 8340 (c) through (j). All references to the “Board” or the “Racetrack Safety Committee” in Rule 8340 (c) through (j) shall be deemed to be references to the “Arbitral Body”.

#### 2287. Provisional Suspension of Registration

##### (a) Provisional Suspension of Covered Person’s Registration

(1) If the Stewards or the Authority have reasonable grounds to believe that the actions or inactions of a Covered Person present an imminent danger to the health, safety, or welfare of Covered Horses or Riders arising from specific violations by the Covered Person of the Authority’s Racetrack safety or accreditation rules, the Stewards or the Authority may issue to such Covered Person a written notice to show cause concerning a potential provisional suspension of the Covered Person’s registration, which notice shall include:

- (i) an itemization of the specific Authority’s safety and accreditation rules which the Covered Person is believed to have violated, and a summary of the conditions, practices, facts, or circumstances which give rise to each apparent violation;
- (ii) the corrective actions suggested to achieve compliance;
- (iii) a request for a written response to the findings, including commitments to suggestive corrective action or the presentation of mitigating or opposing facts and evidence; and
- (iv) a statement that the Covered Person may within 3 business days of receipt of the show-cause notice request a provisional hearing, which, absent exceptional circumstances necessitating a reasonable delay of the hearing, shall be conducted within 3 business days of receipt by the Authority of the Covered Person’s request for a provisional hearing. If the Covered Person does not request a provisional hearing within 3 business

days of the Covered Person's receipt of the show-cause notice, the Authority shall initiate a provisional hearing in accordance with Rule 2287(b).

(2) Notwithstanding Rule 2287(a)(1), if the Stewards or the Authority have clear and convincing evidence that the actions or inactions of the Covered Person present an immediate threat of serious injury or death to Covered Horses or Riders arising from violations by the Covered Person of the Authority's safety or accreditation rules, the Stewards or the Authority may immediately issue a provisional suspension of the Covered Person's registration, which shall remain in effect until the provisional hearing described in paragraph (b) of this Rule.

(3) Nothing in the Authority's rules shall preempt or otherwise impair the authority of a State Racing Commission to suspend a Covered Person in accordance with its provisions of licensure.

(b) Provisional Hearing

(1) A Covered Person who has received a show cause notice pursuant to Rule 2287(a)(1) or whose registration has been provisionally suspended pursuant to Rule 2287(a)(2) is entitled to a provisional hearing to be conducted by one of the following, as determined by the Authority:

(i) one or more members of the Internal Adjudication Panel;

(ii) an independent Arbitral Body;

(iii) the Stewards for adjudication in accordance with the hearing procedures of the applicable state jurisdiction. Provided however, that in any state that has not entered into an agreement with the Authority under which the state Stewards serve in an adjudicatory capacity under the Rule 8000 Series and enforce the Rule 2200 Series, a hearing may be conducted

by one or more Stewards, notwithstanding any state rule to the contrary; or

(iv) a panel of 3 Board members appointed by the Board chair.

(2) The provisional hearing may be conducted in person, or by means of an audio-visual teleconferencing system or a telephone audio system.

(3) The provisional hearing shall be conducted within 3 business days of receipt by the Authority of the Covered Person's request for a provisional hearing. If the Covered Person does not request a provisional hearing, the Authority shall conduct the provisional hearing within 7 business days of the date the show-cause notice was issued to the Covered Person pursuant to Rule 2287(a)(1) or the date the provisional suspension was issued pursuant to Rule 2287(a)(2). The provisional hearing is not a full hearing on the merits, and the sole issue to be determined at the provisional hearing shall be whether the Covered Person's provisional suspension shall remain in effect, go into immediate effect, be stayed pending a final hearing under section (c) of this Rule 2287, or be withdrawn.

(4) At the provisional hearing, the burden is on the Authority to demonstrate good cause why the provisional suspension should remain in effect, go into immediate effect, or be stayed pending a final adjudication. The adjudicatory panel conducting the hearing shall consider all factors that it deems appropriate, including but not limited to the factors established in Rule 8360(e)(1)-(5). Within 72 hours of the conclusion of the hearing, the adjudicatory panel shall issue a written decision determining whether the provisional suspension shall remain in effect, go into immediate effect, be stayed pending a final adjudication, or be withdrawn. As a condition of issuing a stay of the provisional suspension, the adjudicatory panel may require the Covered Person to comply with additional safety standards or other requirements necessary to protect the health, safety, or welfare of Covered Horses or Riders.

(c) Final Hearing by the Board.

(1) A final hearing on the matters giving rise to the provisional suspension shall be adjudicated by at least a quorum of the Board in accordance with the procedures set forth in Rule 8340(d) through (j). If a panel of Board members conducted the provisional hearing pursuant to Rule 2287(b)(1)(iv), the Board members that participated in the provisional hearing shall not participate in the final hearing. If the Covered Person has requested a final hearing, the final hearing by the Board shall be conducted within 14 calendar days of the request by the Covered Person for a final hearing, absent exceptional circumstances which necessitate a reasonable delay of the hearing. If the Covered Person does not request a final hearing within 10 calendar days of the written decision referenced in subsection (b)(3), the Board shall schedule the final hearing.

(2) Within 7 business days of the conclusion of the final hearing, the Board may take one or more of the following actions:

- (i) order that the Covered Person's registration be reinstated, suspended, or revoked, upon a vote in favor of reinstatement, suspension, or revocation by two-thirds of a quorum of the members of the Board; or
- (ii) reinstate the Covered Person's registration subject to any requirements the Board deems necessary to ensure that horseracing will be conducted in a manner consistent with the Authority's safety or accreditation rules. The Board may also impose a fine upon reinstatement in an amount not to exceed \$50,000.00.

(3) The outcome of the final hearing shall be the final decision of the Authority as that term is used in Rule 8350 and Rule 8370 and shall constitute a final civil sanction subject to appeal and review in accordance with the provisions of 15 U.S.C. 3058.

(d) This Rule 2287 shall not apply to Racetracks. Provisional suspensions of Racetracks shall be governed exclusively by Rule 2117.

2290. Requirements for Safety and Health of Riders

2291. Jockey Eligibility

(a) A Jockey shall pass a physical examination given within the previous 12 months by a licensed medical provider affirming the Jockey's fitness to participate as a Jockey, as well as a baseline Concussion test using the Sport Concussion Assessment Tool, Fifth Edition, or such other generally accepted Concussion testing protocol specified by the Authority's National Medical Director. Documentation affirming the Jockey's fitness to participate as a Jockey and successful completion of the physical examination and concussion test in a form and format approved by the Authority's National Medical Director shall be submitted by the Jockey to the Authority's electronic platform designated for collection and storage of Jockey eligibility documentation. Jockey eligibility documentation must be submitted by the Jockey at least annually and updated examination, testing, and affirming documentation may be required more frequently as needed following illness, injury, or other circumstances impacting Jockey's fitness to participate as reasonably determined by the Medical Director or the Authority's National Medical Director. The Stewards may require that any Jockey be reexamined and may refuse to allow any Jockey to ride in a race or Workout pending completion of such examination.

(b) All Jockeys shall execute a written authorization permitting the release of medical information as needed to assist in the collection or receipt of Jockey eligibility documentation and coordination of care in response to racing related injury or illness. Medical information submitted to the Authority shall be maintained by the Authority's electronic platform designated for collection and storage of Jockey eligibility documentation.

## 2292. Rider Medical History Information

- (a) At all times while mounted on a Covered Horse or Pony Horse at a Racetrack, a Rider shall securely attach to the Rider's safety vest one or more medical information cards describing the Rider's medical history and any conditions pertinent to emergency care, including a listing of any previous injuries, drug allergies and current medications.
- (b) The Stewards shall confirm compliance during their safety vest inspections at the beginning of the season and with random inspections throughout the Race Meet.
- (c) The Stewards may, in their discretion, take disciplinary action against, suspend, make ineligible to race, or fine any Rider found in violation of this Rule.

## 2293. Equipment

### (a) *Helmets.*

- (1) Any Rider mounted on a Covered Horse or Pony Horse anywhere on Racetrack grounds shall wear a properly secured safety helmet.
- (2) All Starting Gate Persons shall wear a properly secured safety helmet at all times while performing their duties or handling a horse.
- (3) The safety helmet may not be altered in any manner and the product marking shall not be removed or defaced.
- (4) The Stewards, or their designee, shall inspect safety helmets at the beginning of a Race Meet and randomly throughout the Race Meet.
- (5) The clerk of scales shall report to the Stewards any variances of safety helmets seen during the course of their work.
- (6) The helmet must comply with one of the following minimum safety standards or later revisions:
  - (i) American Society for Testing and Materials (ASTM 1163);
  - (ii) European Standards (EN-1384 or PAS-015 or VG1);

(iii) Australian/New Zealand Standards (AS/NZ 3838 or ARB HS 2012);

or

(iv) Snell Equestrian Standard 2001.

(b) *Vests.*

(1) Any Rider mounted on a Covered Horse or Pony Horse on the Racetrack grounds must wear a properly secured safety vest.

(2) All Starting Gate Persons shall wear a properly secured safety vest at all times while performing their duties or handling a horse. All Starting Gate Persons are required to securely attach to their safety vest one or more medical information cards describing their medical history and any conditions pertinent to emergency care, including a listing of any previous injuries, drug allergies, and current medications.

(3) The safety vest may not be altered in any manner and the product marking shall not be removed or defaced.

(4) The Stewards shall inspect safety vests at the beginning of a Race Meet and randomly throughout the Race Meet.

(5) The clerk of scales shall report to the Stewards any variances of safety vests seen during their course of work.

(6) The safety vest must comply with one of the following minimum standards, as the same may be from time to time amended or revised:

(i) British Equestrian Trade Association (BETA):2000 Level 1;

(ii) iEuro Norm (EN) 13158:2000 Level 1;

(iii) American Society for Testing and Materials (ASTM) F2681-08 or F1937;

(iv) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6-3; or

(v) Australian Racing Board (ARB) Standard 1.1998.

2294. Weight of Riders

The weight of an approved safety helmet and an approved safety vest shall be excluded from the required weight to be carried by a Jockey during a race.

By direction of the Commission.

**April J. Tabor,**

*Secretary.*

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